

TEMPORARY JOINT USE AGREEMENT

THIS TEMPORARY JOINT USE AGREEMENT (“**Agreement**”) is dated for reference purposes _____, 2018 and is made by and between the Washington State Convention Center Public Facilities District, a King County Public Facilities District (“**WSCC**”) and the King County, a home-rule charter county and political subdivision of the State of Washington (“**County**”). WSCC and the County are collectively referred to herein as the “**Parties.**”

RECITALS

A. WSCC and the County entered into a Purchase and Sale Agreement for Convention Place Station dated July 25, 2017 (“**Purchase Agreement**”). All capitalized terms not otherwise defined herein shall have the meanings ascribed in the Purchase Agreement.

B. Pursuant to the Purchase Agreement, the Parties agreed to enter into this Agreement to ensure the continuity of Metro operations on the Property and Metro access to the DSTT until the DSTT Termination Date.

C. WSCC and the County recognize the importance of (i) WSCC constructing its Project on the Property in a timely manner, (ii) continuity of Metro operations, and (iii) the value of working together in a collaborative manner to achieve their respective goals.

AGREEMENTS

NOW, THEREFORE, the Parties enter into this Agreement on the terms and conditions set forth herein.

1. KING COUNTY SITE WORK

- a. Scope of Work. Pursuant to Section 18.2 of the Purchase Agreement, WSCC shall perform the following site work for County on the Property before and as a condition of Closing (“**King County Site Work**”):
 - i. Limited demolition of selected existing structures in the northwest corner of the Property and the islands as shown on Exhibit A (“**King County Metro Site Work (Conceptual Demolition Plan)**”) and further specified in the drawings for the permit referenced on Exhibit A;
 - ii. Dirt and structured ramp to provide interim access to the DSTT, in accordance with Exhibit B (“**Interim Access Ramp**”) and further specified in the drawings for the permit referenced on Exhibit B;

- iii. Revised curb cuts for Interim Access to DSTT as shown on page 2 of Exhibit E at 70.0 feet on 9th Avenue and further specified in the drawings for the permit referenced on Exhibit E;
- iv. Removal of overhead wires on the Property, as further specified in the drawings for the permit referenced on Exhibit A.
- v. Layover loop, which includes improvements on Pike Street, Convention Place, 7th Avenue, 8th Avenue, 9th Avenue, and Pine Street, as shown on Exhibit E (“**King County Bus Layover Loop**”) and further specified in the permit drawings referenced on Exhibit E; and
- vi. Demolition of current improvements on the Property necessary to perform the work specified in (i) – (v) above only, in accordance with the Special Use Permit issued by County pursuant to Section 1(d) below; provided, however, that WSCC shall not proceed with any demolition until the Ramp Commencement Date (as defined below) (a) of the existing Metro passenger facility that would prevent reasonable use of the passenger facility as reasonably determined by Metro, or (b) of the existing fly-over bridge as shown on Phase 1 of Exhibit F connected to Olive Way. WSCC shall not proceed with demolition of the security booth until relocated to Ninth Avenue to County’s reasonable satisfaction. The north half of the Interim Access Ramp (hatched area in Phase 2 of Exhibit F) can be built without closing the passenger facility. To build the remainder of the Interim Access Ramp, the passenger facility will need to be closed. In addition, no demolition involving the artwork on the Property shall be done except in compliance with Section 18.3 of the Purchase Agreement.

Certain components of the King County Site Work are shown on Phases 1-6 of the Phasing Exhibit prepared by Clark/Lewis, attached hereto as Exhibit F (“**Conceptual Phasing Plan**”). WSCC shall notify County of all changes made to the Conceptual Phasing Plan. Any material changes to the Conceptual Phasing Plan shall be subject to the review and written approval of the County, which shall not be unreasonably withheld, conditioned or delayed.

- b. Timing. WSCC shall perform the King County Site Work in accordance with the schedule prepared by Clark/Lewis, the summary of which is attached hereto as Exhibit G (“**Conceptual Schedule**”). WSCC and County anticipate that the Conceptual Schedule will be further refined as the work progresses. WSCC shall provide the County with an updated schedule monthly until the DSTT Termination Date. Any material changes to the Conceptual Schedule shall be subject to the review and approval of the County, which shall not be unreasonably withheld, conditioned or delayed. Notwithstanding anything to the contrary, WSCC may not begin to perform the King County Site Work until WSCC has published a final environmental impact statement (“EIS”) and issued a record of decision in accordance with the National Environmental Policy Act to the extent applicable; provided, however, County shall not be liable for any additional

construction costs or liabilities incurred by WSCC associated with any actions in connection with the record of decision, including but not limited to, construction delays resulting from or related to such actions.

- c. Payment. WSCC shall be solely responsible for the cost of the King County Site Work; provided, however, that payment obligations for (1) the Interim Access Ramp specified in Section 1(a)(ii) above shall be as set forth in Section 2(c) below, and (2) the right of way improvements included as part of the work specified in Section 1(a)(v) above shall be paid as follows: After County and WSCC evaluate the SDOT requirements, then County and WSCC shall negotiate an equitable division of this cost but County's share shall not exceed \$5,500,000. WSCC shall provide documentation of actual costs in the same manner as provided for Reimbursement Materials in Section 2(c)(ii) below. County payments are due when billed except no payments shall be due earlier than January 15, 2019.
- d. Special Use Permit(s). Prior to commencing the King County Site Work, WSCC must obtain, or cause its contractor to obtain, a special use permit(s) from the County for the King County Site Work, DSTT Access Work and, as described in that certain TPSS MOU Amendment between the Parties dated _____, 2018, the Infrastructure Work ("**County SUP**"). WSCC shall cause its contractor to comply with the County SUP. The County SUP shall include a comprehensive safety plan consistent with Exhibit P plus such other requirements as reasonably required by County. The County SUP shall terminate upon Closing except that all special terms and conditions related to use of property still owned by the County shall remain in effect and enforceable as part of this Agreement, all subject to the terms of this Agreement.
- e. Restoration. If WSCC commences the King County Site Work but fails to close on the acquisition of the Property except for default by County as provided in the Purchase Agreement, WSCC shall, at the County's option determined in its sole discretion, promptly restore the Property to the condition it was in prior to commencement of the King County Site Work, at WSCC's sole cost and expense.

2. INTERIM ACCESS CONSTRUCTION

- a. Scope of Work. Pursuant to Section 18.2(a) of the Purchase Agreement, WSCC shall be responsible for constructing interim access to the DSTT, which shall include the Interim Access Ramp and the components shown on the Phases 1-6 of the Conceptual Phasing Plan, and further detailed in Exhibit I ("**DSTT Access Work**"). To the extent of any inconsistencies between Exhibit I and any other exhibits attached to this Agreement, Exhibit I shall control. DSTT Access Work shall include demolition of the passenger facility, flyover ramp and other improvements on the Property; provided, however, that such demolition shall not commence until the Ramp Commencement Date except as set forth in Section 1(a)(vi) above. All DSTT Access Work shall be done in such a manner as to provide continuous bi-directional bus service.

- b. Timing of Work. The DSTT Access Work shall be completed in accordance with the Conceptual Schedule. WSCC shall provide County notice prior to proceeding to next Phase on the Conceptual Phasing Plan at least ten (10) business days in advance, so that County may conduct operational testing as necessary. If, as a result of County's operational testing, County reasonably determines that modifications are necessary to provide continuous bi-directional bus service, WSCC shall make such modifications at its sole cost and expense, and shall not proceed to the next Phase on the Conceptual Phasing Plan until County is satisfied that any such modifications are sufficient to provide continuous bi-directional bus service.

- c. Payment.
 - i. Payment for DSTT Access Work. The cost estimated for the DSTT Access Work is attached hereto as Exhibit J ("**Estimated Budget – Dirt Ramp**"). Pursuant to Section 18.2(a) of the Purchase Agreement, County will reimburse WSCC for eighty percent (80%) of the actual and verifiable hard and soft costs of the DSTT Access Work, up to a maximum reimbursement of Four Million and 00/100 Dollars (\$4,000,000.00) ("**County Payment**"), and WSCC shall be responsible for the remaining costs for the DSTT Access Work. The County Payment is inclusive of all costs related to or resulting from the DSTT Access Work under this Agreement including, without limitation, overhead and profit, state and local taxes, bonding and insurance. The County Payment shall be due June 30, 2020.

 - ii. Reimbursement Procedure. WSCC shall provide the County with: (a) documentation to evidence the actual costs of the DSTT Access Work and County's share of the improvements in the King County Site Layover Loop Plan, all such documentation to be certified by WSCC as true and correct, (b) executed lien releases/payment confirmation from all contractors, subcontractors and material suppliers for the DSTT Access Work or improvements in the King County Bus Layover Loop which shall comply with the appropriate provisions of applicable law, and (c) all other information reasonably requested by County (collectively, "**Reimbursement Materials**"). The County shall have fifteen (15) business days to review the Reimbursement Materials submitted by WSCC and to seek reasonable additional backup documentation or clarification regarding any matter therein. Within twenty (20) business days following the County's receipt of the Reimbursement Materials or any reasonably requested backup documentation or clarification, County shall disburse the County Payment to WSCC.

3. INTERIM ACCESS

- a. Commencement of Bus Service on Layover Loop. King County Metro buses shall commence usage of the Secondary Temporary Ramp (as shown on Phase 3

of the Conceptual Phasing Plan) (“**Secondary Temporary Ramp**”) and King County Bus Layover Loop when WSCC has done all of the following, and provided County with written notice thereof (the “**Ramp Commencement Date**”):

- i. Obtained its Master Use Permit for the Project, and all other permits necessary to commence construction of the Project;
- ii. Issued a Notice to Proceed for commencement of construction of the Project to its general contractor;
- iii. Mobilized personnel and equipment to the Property (site mobilization) for the commencement of construction of the Project; and
- iv. Completed that portion of the King County Site Work necessary to allow for buses to use the Secondary Temporary Ramp and King County Bus Layover Loop with continuous bi-directional service to County’s reasonable satisfaction (as determined after operational testing of the Secondary Temporary Ramp and King County Bus Layover Loop), and obtained SDOT approval for use of the King County Bus Layover Loop and Secondary Temporary Ramp.

WSCC shall provide County with three (3) months prior written notice of the anticipated Ramp Commencement Date together with monthly updates.

- b. Temporary Layover Space. WSCC and County have obtained SDOT approval for the Temporary Layover Space (defined below).
- c. DSTT Termination Date. King County Metro buses shall cease operations in and out of the DSTT no earlier than the September 2019 Metro transit service change unless the following conditions are met:
 - i. The permits necessary to commence construction of the Project, which are contingent upon issuance of the Project’s Master Use Permit but not necessarily all permits required to complete construction of the Project, are issued by the City of Seattle prior to July 1, 2018; and
 - ii. WSCC has notified the County no later than September 30, 2018, that WSCC has begun demolition and construction of the Project (beyond King County Site Work) and that WSCC needs to take control of the Property by March 2019.
 1. For purposes of this Section, “take control” means continued operation of the Property as a transit base would impair construction of the Project.

2. For purposes of this Section, “demolition” includes site mobilization, fencing, demolition of buildings, terminating duct banks, and grading of the Property.

If the notice specified in subsection (ii) above does not occur by September 30, 2018, the County shall vacate the Property at the end of March or September of each calendar year, provided that at least six (6) months’ notice has been given prior to each date, which notice must contain the elements specified in subsection (ii) above.

- d. Temporary Access, Operation and Maintenance Easement. WSCC will grant County a Temporary Access, Operation and Maintenance Easement in the form attached hereto as Exhibit K (“**Form Temporary Access, Operation and Maintenance Easement**”) to allow County to, until the DSTT Termination Date: (1) utilize the Property for bus service, (2) allow County access as necessary to maintain the communications room located on the southwest corner of the Property, and (3) utilize the barrier booth.

4. **STRUCTURED RAMP ALTERNATIVE**

It is currently contemplated that the Interim Access Ramp will be a dirt ramp as detailed in Exhibit B. However, if the fiber connection to the communication room has been rerouted as contemplated in the TPSS MOU Amendment and the conditions have not been satisfied for the busses to cease using the tunnel in March 2019, WSCC may request approval from the County to replace the dirt ramp with the structured ramp as shown on Exhibit L (“**Alternative Interim Access Ramp**”), which approval will not be unreasonably withheld, conditioned or delayed. The estimated budget for the structured ramp is shown in Exhibit M (“**Estimated Budget – Structured Ramp**”). If the Alternative Interim Access Ramp is used, all references to the Interim Access Ramp shall be deemed to reference the Alternative Interim Access Ramp.

5. **BUS LAYOVER SPACE**

- a. Temporary Layover Space. At all times prior to the DSTT Termination Date, WSCC shall provide, at its sole cost and expense, temporary bus layover space for a total of nine (9) 60-foot long buses simultaneously (“**Temporary Layover Space**”). The Parties currently contemplate that that Temporary Layover Space will be in the locations shown on attached Exhibit N [include 2 locations], which locations have been approved by SDOT (“**Approved Locations**”). WSCC shall be responsible for the costs associated with the Approved Locations of the Temporary Layover Space.
- b. Permanent Layover Space. WSCC shall assist County and SDOT to determine a location to accommodate (i) fifteen (15) 60-foot long buses in a single (or dual) location or (ii) twenty-four (24) 60-foot long buses in dispersed locations (on or off-street) in the downtown area of Seattle.

6. **BUS ROUTES, DELAYS AND CLOSURE.**

- a. Closure of DSTT to Bus Service.
 - i. The Parties acknowledge that temporary closure of the DSTT to bus service will be necessary in connection with the construction of the Interim Access Ramp. Any closures of the DSTT shall occur: (i) only when strictly necessary, (ii) only on nights (9pm – 4am) and weekends (Saturday 1am – Monday 4am), and (iii) at such times and in such manner as are mutually agreed-upon by County and WSCC. The Parties shall act reasonably and cooperatively with respect to necessary DSTT closures. WSCC acknowledges that closures of the DSTT may not occur on certain event weekends.
 - ii. Prior to any such temporary closure of the DSTT to bus service, WSCC shall provide County with at least thirty (30) days' prior written notice of the anticipated closure, whether partial or full. County shall have fifteen (15) business days to either approve the anticipated closure or propose alternative timing. If County fails to provide a written response within fifteen (15) business days of WSCC's notice, County shall be deemed to have disapproved the proposed closure.
- b. WSCC Notice for Construction Impacts on Bus Service. At any time that WSCC becomes aware of construction activity that is causing, or will cause, delays or otherwise adversely impact the use of the Interim Access Ramp which have not been otherwise addressed pursuant to Section 6(a), WSCC shall immediately notify County. Prior to commencing such construction activity, WSCC shall allow County adequate time to ensure continued operations, and shall not commence such construction activity until County has notified WSCC that it may proceed. In the event the construction activity has already commenced when such delays arise, WSCC shall immediately cease or revise all work impacting bus operations, and shall not re-commence until County has had adequate time, recognizing the importance of timely resolution, to ensure continuous operations and has notified WSCC that it may continue. WSCC shall develop a truck circulation plan on the Property for County review and approval. In no event shall truck traffic related to WSCC's construction be permitted on the Secondary Temporary Ramp, Interim Access Ramp or on the bus pathways (including crossing such pathways) as shown on the Conceptual Phasing Plan, which would materially interfere with bus traffic except as may be otherwise permitted in the County SUP.
- c. County Notice re Bus Service Delays. If County notifies WSCC that there are unreasonable delays in bus service arising from WSCC's work, WSCC shall immediately mitigate or otherwise address the issues at its sole cost and expense, in a manner reasonably acceptable to County.

7. CONSTRUCTION MATTERS.

- a. Construction Agreement. WSCC shall cause the King County Site Work and DSTT Access Work to be performed by WSCC's general contractor, in accordance with a change order to the construction agreement attached hereto as Exhibit O ("**Construction Agreement**") and County SUP.
- b. Change Orders. No changes, modifications, alterations or additions to the Construction Agreement with respect to the King County Site Work and DSTT Access Work which would adversely affect County use of the DSTT may be made without the prior written consent of the County, which shall not be unreasonably withheld, after written request therefor by WSCC (such written request, a "**Change Order**"). In the event that the King County Site Work and DSTT Access Work is not constructed substantially in accordance with the Construction Agreement, County SUP and all relevant plans approved pursuant to this Agreement (collectively, "**Work Requirements**"), so as to adversely impact County's ability to provide continuous bi-directional bus service, then WSCC shall immediately correct such work so it complies in all material respects with the Work Requirements so as to provide for continuous bi-directional bus service.
- c. Standards for Work.
 - i. WSCC shall perform the King County Site Work and DSTT Access Work in a thoroughly safe, first-class and professional manner in conformity with the approved plans, and in compliance with all applicable laws, rules and regulations.
 - ii. WSCC shall be required to obtain and pay for all necessary permits and/or fees with respect to the King County Site Work and DSTT Access Work, copies of which shall be provided to the County prior to commencement of such work.
 - iii. If WSCC's contractor reasonably determines that it needs to use additional space not shown on the Conceptual Phasing Plan to store, handle, or move materials and equipment prior to Closing, it will seek prior written approval from the County for such space. The County agrees that it will not unreasonably withhold or delay such consent, and that it shall use commercially reasonable efforts to accommodate such requests, and provide any necessary easements in connection with the same.
 - iv. Prior to Closing, WSCC shall keep the Property free from any mechanic's, materialman's or similar liens or other such encumbrances in connection with the King County Site Work or DSTT Access Work, and shall release, defend, indemnify and hold the County harmless from and against any claims, liabilities, judgments, or costs (including attorneys' fees) arising in connection therewith.
 - v. If not otherwise included in WSCC's contractor's monthly request for payment, WSCC shall cause WSCC's contractor's to submit, with a copy

delivered to County, written monthly progress reports on the King County Site Work or DSTT Access Work showing percentages of completion and any actual or potential changes to the construction schedule in contractor's usual form. WSCC shall also require its contractor to maintain in contractor's usual form at the project site one record copy of all construction documents, all drawings, specifications, addenda, change orders and other modifications, in good order and marked currently to record changes and selections made during construction together with approved shop drawings, product data, samples and similar required submittals. All such records shall be made available to the County and any consultant(s) retained by the County, upon request.

- vi. The County shall have the right to inspect the on-going King County Site Work and DSTT Access Work upon reasonable prior notice to WSCC. In addition, the County at its expense shall have the right to have an independent consulting architect, engineer or other appropriate consultant inspect the construction work. The County's agents and employees shall comply with the contractor's work site safety requirements in connection with such inspections.
- d. Insurance. Once its owner controlled insurance program (OCIP) has been activated and continuing all times until the DSTT Termination Date, WSCC shall name the County as an additional insured. Until the OCIP is activated, WSCC shall maintain the insurance policies and levels as may be required by the County SUP or otherwise approved by County in writing.
- e. Indemnity. WSCC and King County agree to defend, indemnify, and hold harmless each other, their respective officials, agents, contractors and employees, from and against any and all claims, damages, injuries, liabilities, actions, fines, penalties, costs and expenses (including reasonable attorney fees) that arise out of or are related to the negligent acts or omissions of the indemnifying party, and its officials, agents, employees and contractors acting within the course and scope of their employment and in the performance of said party's obligations under this Agreement or the exercise of a party's rights and privileges under this Agreement. In the event any such liability arises from the concurrent negligence of the indemnifying party and the other party, the indemnity obligation of this section shall apply only to the extent of the negligence of the indemnifying party and its actors. The foregoing provisions specifically and expressly intend to constitute a waiver of each party's immunity under industrial insurance, title 51 RCW, as respects the other party only, and only to the extent necessary to provide the indemnified party with a full and complete indemnity of claims made by the indemnitor's employees. This waiver has been mutually negotiated.
- f. Construction Contract Provisions. WSCC shall ensure that the Construction Agreement and all other construction contracts, including subcontracts, include provisions requiring the following: (1) WSCC's contractor shall comply with all prevailing wages laws as set forth in Chapter 39.12 RCW; (2) WSCC's contractor

shall promptly pay its subcontractors perform work in accordance with all requirements of law; (3) WSCC's contractor shall provide a performance and payment bond for the full contracted value of the work, in accordance with chapter 39.08 RCW; (4) WSCC's contractor shall initiate, maintain and provide supervision of safety precautions and programs in accordance with all applicable requirements of law; (5) WSCC's contractor, in performing work, shall take all necessary actions to ensure the continuity of bus operations; (6) WSCC's contractor shall immediately remedy, remove, replace, or dispose of unauthorized or defective work or materials; and (7) WSCC's contractor or WSCC shall secure for the benefit of the County all warranties of the work provided by subcontractors, suppliers and manufacturers of products, materials, systems and components of the DSTT Access Work and King County Site Work. Also, WSCC shall cause the general contractor work zone to be limited to the area shown on Exhibit Q ("C/L Work Zone") and shall ensure that the contractor does not interfere with the area being used by the County's busses.

8. CORRESPONDENCE AND NOTICE.

- a. Addresses. All notices provided for herein shall be in writing and addressed to each of the Parties at the following addresses:

County: Deputy General Manager
King County Metro Transit
Attn: Victor Obeso
King Street Center
201 S Jackson Street
Seattle, WA 98104
Victor.Obeso@kingcounty.gov

with copies as appropriate to:

For construction and operational issues:

Project Manager
King County Metro Transit
Attn: Ron Moattar
King Street Center
201 S Jackson Street
Seattle, WA 98104
Ron.Moattar@kingcounty.gov

For all notices:

Cairncross & Hempelmann, P.C.
Attn: Matt Hanna
524 Second Avenue, Suite 500
Seattle, WA 98104
MHanna@Cairncross.com

King County Prosecuting Attorney
Attn: Thomas Kuffel
900 King County Administration Bldg.
500 Fourth Avenue
Seattle, WA 98104-2316
Thomas.kuffel@kingcounty.gov

WSCC:

Pine Street Group L.L.C.
Attn: Matt Rosauer
1500 4th Avenue, #600
Seattle, WA 98101
MattR@PineSt.com

with copies as appropriate to:

For construction and operational issues:

Clark Construction
Katie Twomey
Katie.Twomey@ClarkConstruction.com

For all notices:

Foster Pepper
Attn: Gary Fluhrer
1111 Third Avenue, Suite 3400
Seattle, WA 98101
Gary.fluhrer@foster.com

- b. Method of Notice. Unless otherwise provided herein, notices shall be sent by registered or certified U.S. Mail, or other verifiable physical or electronic transmission, and shall be deemed effective upon the date of actual receipt or return receipt acknowledgement.

9. PROMISSORY NOTE OFFSET.

Notwithstanding anything to the contrary herein, to the extent County fails to pay any amount due under this Agreement within fifteen (15) days of the date such amount is due, WSCC may, at its option, deduct and offset any such amount owed by County from the amount owed by WSCC under the Note; provided, however, WSCC shall have delivered notice of such offset to County at least ten (10) business days prior to such offset becoming effective. Notwithstanding the foregoing, if, within such ten (10) business day period after receiving notice from WSCC, County delivers written notice to WSCC that it has a dispute with such amount, there shall be no offset.

10. **ADDITIONAL EASEMENTS.** WSCC shall grant County the following easements, which shall be on mutually agreeable terms, and shall be executed and delivered at Closing:

- a. For two weeks after the DSTT Termination Date, WSCC will grant to County, its affiliates, employees, agents and contractors a temporary, non-exclusive access right for ingress and egress over and across the Property for County's access and construction of a wall on County's property in the approximate location shown on Exhibit R. The location and route of such access over the Property will be determined by mutual agreement between County and WSCC's contractor to minimize interference with WSCC's construction of the WSCC Addition. This agreement will be a separate document.
- b. A permanent easement, or other mutually agreeable access agreement, allowing County to maintain, repair and replace the TPSS communications equipment in the approximate location shown on Exhibit S; such final location to be by mutual agreement of the Parties.

11. **GENERAL PROVISIONS.**

- a. Cooperation. In fulfilling obligations and exercising rights under this Agreement, each Party shall cooperate with the other Party to (a) promote the efficient operation of buses on the Property and efficient construction of WSCC's Project, and (b) foster the harmonious relationship between the Parties. To that end, each Party shall share information which it possesses relating to matters which are the subject of this Agreement, except such information as a Party may reasonably deem confidential or privileged or which may be the subject of litigation or which such Party is prohibited from revealing pursuant to court order. From time to time after the date hereof, each Party shall furnish, execute and acknowledge, without charge (except where elsewhere provided herein) such other instruments, documents, materials and information as the other Party may reasonably request in order to confirm to such requesting Party the benefits contemplated hereby, but only so long as any such request does not restrict or abridge the benefits granted the other Party hereunder.
- b. Dispute Resolution. Section 21 of the Purchase Agreement is hereby incorporated by reference.
- c. Successors and Assigns. This Agreement shall be binding upon and shall inure to the benefit of the Parties and their successors and assigns.
- d. Modification or Amendment; Waivers; Extension. No amendment, change or modification of this Agreement shall be valid unless in writing and signed by the Parties. No waiver of any breach of any covenant or provision in this Agreement shall be deemed a waiver of any preceding or succeeding breach thereof or of any other covenant or provision in this Agreement. No extension of time for

performance of any obligation or act shall be deemed an extension of the time for performance of any other obligation or act.

- e. Captions. Captions are solely for the convenience of the Parties and are not a part of this Agreement.
- f. Construction; Conflict. This Agreement shall not be construed as if it had been prepared by any one of the Parties, but rather as if both Parties had prepared it. In the event of a conflict between this Agreement and the Purchase Agreement, this Agreement shall control.
- g. Date for Performance. If the date on which any party is required to take any action under the terms of this Agreement is not a business day, the action shall be taken on the next succeeding business day.
- h. Exhibits. All exhibits attached hereto are incorporated herein by this reference.
- i. Severability. If any term or provision of this Agreement shall, to any extent, be held invalid or unenforceable, the remaining terms and provisions of this Agreement shall not be affected thereby, but each remaining term and provision shall be valid and enforced to the fullest extent permitted by law.
- j. Time of Essence. Time is of the essence of this Agreement.
- k. Applicable Laws. This Agreement and said other instruments shall, in all respects, be governed, construed, applied and enforced in accordance with the laws of the State of Washington, including without limitation, matters affecting title to all real property described herein.
- l. No Third-Party Beneficiary. This Agreement is not intended to give or confer any benefits, rights, privileges, claims, actions or remedies to any person or entity as a third party beneficiary under any Laws or otherwise.
- m. Incorporation. Each provision of the Recitals to this Agreement and each Exhibit attached hereto is hereby incorporated in this Agreement and is an integral part hereof.
- n. Counterparts. This Agreement may be executed in counterparts (including by facsimile or electronic transmission) and all such executed counterparts shall collectively constitute one and the same original document.

12. LIST OF EXHIBITS

<u>EXHIBIT LETTER OR NUMBER</u>	<u>TITLE OR DESCRIPTION</u>	<u>PAGE</u>
Exhibit A	King County Metro Site Work (Demolition	A-1

Plan)

Exhibit B	Interim Access Ramp	B-1
Exhibit C	[Reserved]	C-1
Exhibit D	[Reserved]	D-1
Exhibit E	King County Bus Layover Loop	E-1
Exhibit F	Conceptual Phasing Plan	F-1
Exhibit G	Conceptual Schedule	G-1
Exhibit H	[Reserved]	H-1
Exhibit I	DSTT Access Work	I-1
Exhibit J	Estimated Budget – Dirt Ramp	J-1
Exhibit K	Form Temporary Access, Operation and Maintenance Easement	K-1
Exhibit L	Alternative Interim Access Ramp	L-1
Exhibit M	Estimated Budget - Structured Ramp	M-1
Exhibit N	Approved Locations	N-1
Exhibit O	Construction Agreement	O-1
Exhibit P	Safety Management Plan	P-1
Exhibit Q	C/L Work Zone	Q-1
Exhibit R	Separation Wall	R-1
Exhibit S	Communications Room	S-1

Remainder of page intentionally left blank; separate signature page attached.

EXECUTED as of the dates set forth below.

KING COUNTY,
a home-rule charter county and political
subdivision of the State of Washington

By: _____

Name: _____

Title: _____

DATED: _____, 2018

Approved as to form:

Sr. Deputy Prosecutor

**WASHINGTON STATE CONVENTION
CENTER PUBLIC FACILITIES
DISTRICT,** a King County public facilities
district

By: _____

Name: Frank Finneran

Title: Chairman of the Board of Directors

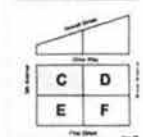
DATED: _____, 2018

Approved as to form:

Matthew R. Hendricks, General Counsel

EXHIBIT A

King County Site Demolition Plan



DEMOLITION FLAG NOTES

SURFACE ELEMENT DEMOLITION

- (1) REMOVE EXISTING TREE, SHRUBS, LANDSCAPE, BENCH, AND PLANTING
- (2) REMOVE EXISTING BALCONY, SUPPORTED COLUMN, ATTACHED ROOF BRACKETS, RAFTERS, CEILING, STAIRS, SLOPS, AND STEPS
- (3) REMOVE EXISTING BRIDGE (CONCRETE, STRUCTURE, SUPPORT COLUMNS, FOUNDATIONS, RAFTERS, PI, AND BRACKETS)
- (4) REMOVE EXISTING WALKWAY / BARRICADE AND APPURTENANCES
- (5) REMOVE EXISTING SAND AND FOUNDATION
- (6) REMOVE EXISTING BOLLARD AND FOUNDATION
- (7) REMOVE EXISTING WALL AND BELOW GRADE FOOTING
- (8) REMOVE EXISTING CONCRETE CURB AND BOLLARD
- (9) REMOVE EXISTING ASPHALT PAVEMENT
- (10) REMOVE EXISTING CONCRETE PAVEMENT
- (11) REMOVE EXISTING FLAG, GATE, AND POST FOUNDATION
- (12) REMOVE EXISTING FENCE, GATE, AND POST FOUNDATION
- (13) REMOVE EXISTING ASPHALT PAVEMENT
- (14) REMOVE EXISTING ASPHALT PAVEMENT
- (15) CONTRACTOR TO REMOVE EXISTING FENCE AND POST FOUNDATIONS AS REQUIRED

- (16) REMOVE EXISTING CURB RAMP
- (17) REMOVE EXISTING CONCRETE BARRICADE
- (18) REMOVE EXISTING BENT BRACK AND RETURN TO OWNER
- (19) REMOVE EXISTING BELTDRUM, SUPPORT COLUMNS AND FOUNDATIONS
- (20) REMOVE EXISTING CONCRETE CURB
- (21) REMOVE EXISTING SECURITY CAGNAN
- (22) REMOVE EXISTING STAIRS AND FOUNDATION
- (23) REMOVE EXISTING BEACH
- (24) REMOVE EXISTING ESCALATOR, SUPPORTS, FOUNDATIONS, AND APPURTENANCES
- (25) REMOVE EXISTING CANOPY, SUPPORTS, AND APPURTENANCES
- (26) REMOVE EXISTING CONCRETE SIDE WALK
- (27) REMOVE EXISTING BRIDGE SURFACING
- (28) REMOVE EXISTING STREET LIGHT, BOLLARD AND WALK
- (29) REMOVE EXISTING PLANTER WALL AND FOOTING
- (30) REMOVE EXISTING UPPER PARKING WALL, EXISTING LOWER PARKING WALL, SHALL RETURN IN PLACE

UTILITY DEMOLITION

- (31) REMOVE EXISTING WATER PIPING, WELLS, FITTINGS AND VALVES/BRACKETS
- (32) REMOVE EXISTING FIRE HYDRANT
- (33) REMOVE EXISTING FIBER OPTIC/TELECOM CONNECTION
- (34) REMOVE EXISTING WATER STRUCTURE, METERS, AND APPURTENANCES
- (35) REMOVE EXISTING SANITARY SEWER PIPING, MANHOLELS, CLEANOUTS AND FITTINGS
- (36) REMOVE EXISTING STORM DRAIN PIPING, CATCH BASIN, BOLLARD, MANHOLELS, PITCH BRACKETS, AND A DRAINAGE INLET CURB AND CURB CUTS
- (37) REMOVE EXISTING ELECTRICAL STRUCTURES, PEGS, PULLBOXES AND WIRE/CABLES
- (38) REMOVE EXISTING ELECTRICAL WALL

- (39) REMOVE EXISTING TRAFFIC PULBOL, SIGNALS, POSTS, SIGNALS, AND WIRE/CABLES
- (40) REMOVE EXISTING TELEPHONE/COMMUNICATION STRUCTURE, PEGS, AND WIRE/CABLES
- (41) REMOVE EXISTING MEDIUM/VOLTAI AND ASSOCIATED WELLS
- (42) REMOVE EXISTING WIREFORM WELLS
- (43) REMOVE EXISTING PANEL AND ELECTRICAL EQUIPMENT
- (44) REMOVE EXISTING STEAM PIPING AND SERVICE STRUCTURE
- (45) REMOVE EXISTING REMOVE EXISTING GAS PIPING AND WELLS
- (46) REMOVE EXISTING STRAIN POLE, OVERHEAD WIRE AND APPURTENANCES
- (47) REMOVE EXISTING TRAFFIC LIGHTS AND SIGNALS

EXISTING ITEMS TO REMAIN OR ABANDON

- (48) EXISTING STORM DRAIN PIPING, CATCH BASINS, BOLLARDS, AND WELLS TO REMAIN
- (49) EXISTING ELECTRICAL WALL TO REMAIN
- (50) EXISTING CONCRETE BARRICADE TO REMAIN
- (51) EXISTING CONCRETE CURBING TO REMAIN
- (52) EXISTING CONCRETE RETAINING WALL AND ATTACHED CURBING TO REMAIN
- (53) EXISTING STREET LIGHT AND OVERHEAD WIRE TO REMAIN
- (54) EXISTING ELECTRICAL BULK HEAD TO REMAIN
- (55) EXISTING CONCRETE FACED WALL AND CURBING SUPPORTS TO REMAIN, GENERAL ONLY AS REBUILT FOR NEW STRUCTURAL WALL INSTALLATION
- (56) EXISTING CANOPY, SUPPORTS, AND APPURTENANCES TO REMAIN
- (57) EXISTING FENCE, BOLLARD, LANDSCAPE, BENCH, AND PLANTING TO REMAIN
- (58) EXISTING PLANTER WALL AND FOOTING TO REMAIN
- (59) EXISTING STAIRS AND FOUNDATION TO REMAIN
- (60) EXISTING BRACKETS, SUPPORTING COLUMNS, ATTACHED ROOF BRACKETS, RAFTERS, CEILING, STAIRS, SLOPS, AND STEPS TO REMAIN
- (61) EXISTING BRACKETS, FOUNDATION, PIPING, FITTINGS AND BOLLARDS TO REMAIN
- (62) EXISTING BRIDGE LIGHTING, CONDUIT, STRUCTURE, SUPPORT COLUMNS, FOUNDATIONS, PIPING, FITTINGS AND BOLLARDS TO REMAIN
- (63) EXISTING STRAIN POLE TO REMAIN
- (64) EXISTING SANITARY SEWER PIPING, MANHOLELS, CLEANOUTS AND FITTINGS TO REMAIN
- (65) EXISTING BRIDGE LIGHTING, CONDUIT, STRUCTURE, SUPPORT COLUMNS, FOUNDATIONS, PIPING, FITTINGS AND BOLLARDS TO REMAIN
- (66) EXISTING SANITARY SEWER PIPING, MANHOLELS, CLEANOUTS AND FITTINGS TO REMAIN
- (67) EXISTING STRAIN POLE TO REMAIN
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- (99) EXISTING SANITARY SEWER PIPING, MANHOLELS, CLEANOUTS AND FITTINGS TO REMAIN
- (100) EXISTING SANITARY SEWER PIPING, MANHOLELS, CLEANOUTS AND FITTINGS TO REMAIN

Exhibit A
King County Metro Site Work
SDCI MUP #3022912
(Demolition Plan)

- NOTES:
1. SEE SHEET C15.01 FOR GENERAL NOTES.
 2. SEE SHEET C15.02 FOR DEMOLITION AREAS.
 3. SEE SUP SHEETS FOR DEMOLITION ITEMS WITHIN THE 0.100' OF 0.10'.

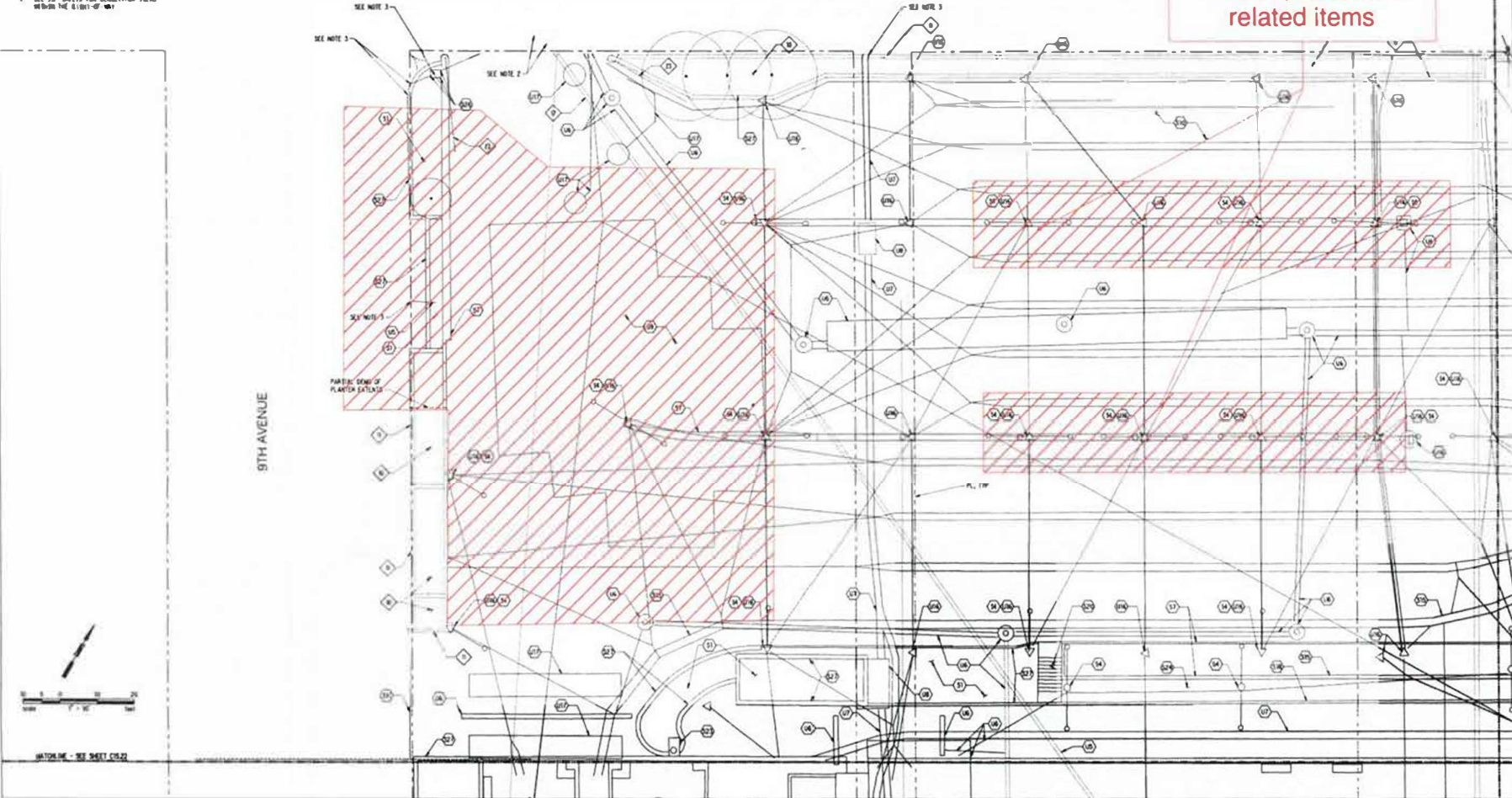


EXHIBIT B
Interim Access Ramp

Exhibit B
Interim Access Ramp
(Dirt South Bridge)
SDCI Permit #6608701

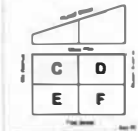
LMN Engineering
10000 1st Avenue, Suite 100
 Denver, CO 80202
 Tel: 303.733.1100
 Fax: 303.733.1101

MAGNUSON KLEMENCIC ASSOCIATE
Structural & Civil Engineers
1515 16th Avenue, Suite 100
 Denver, Colorado 80202
 Tel: 303.733.1100
 Fax: 303.733.1101

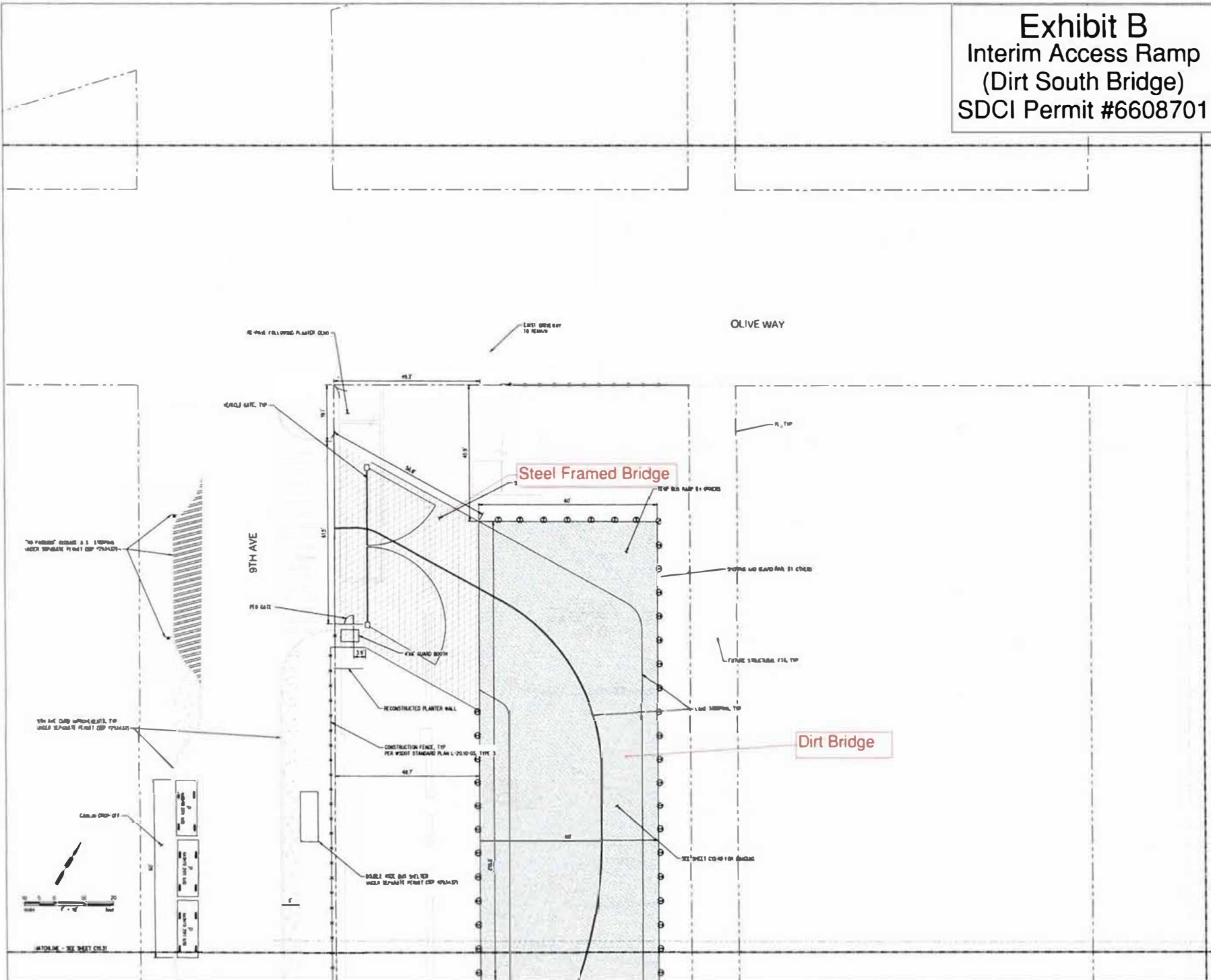
SDCI MUP
 NUMBER: 3022912
 C:\MUP\CAD

King County
 Metro Site Wor

Master Use Permit



SITE PLAN - AREA C



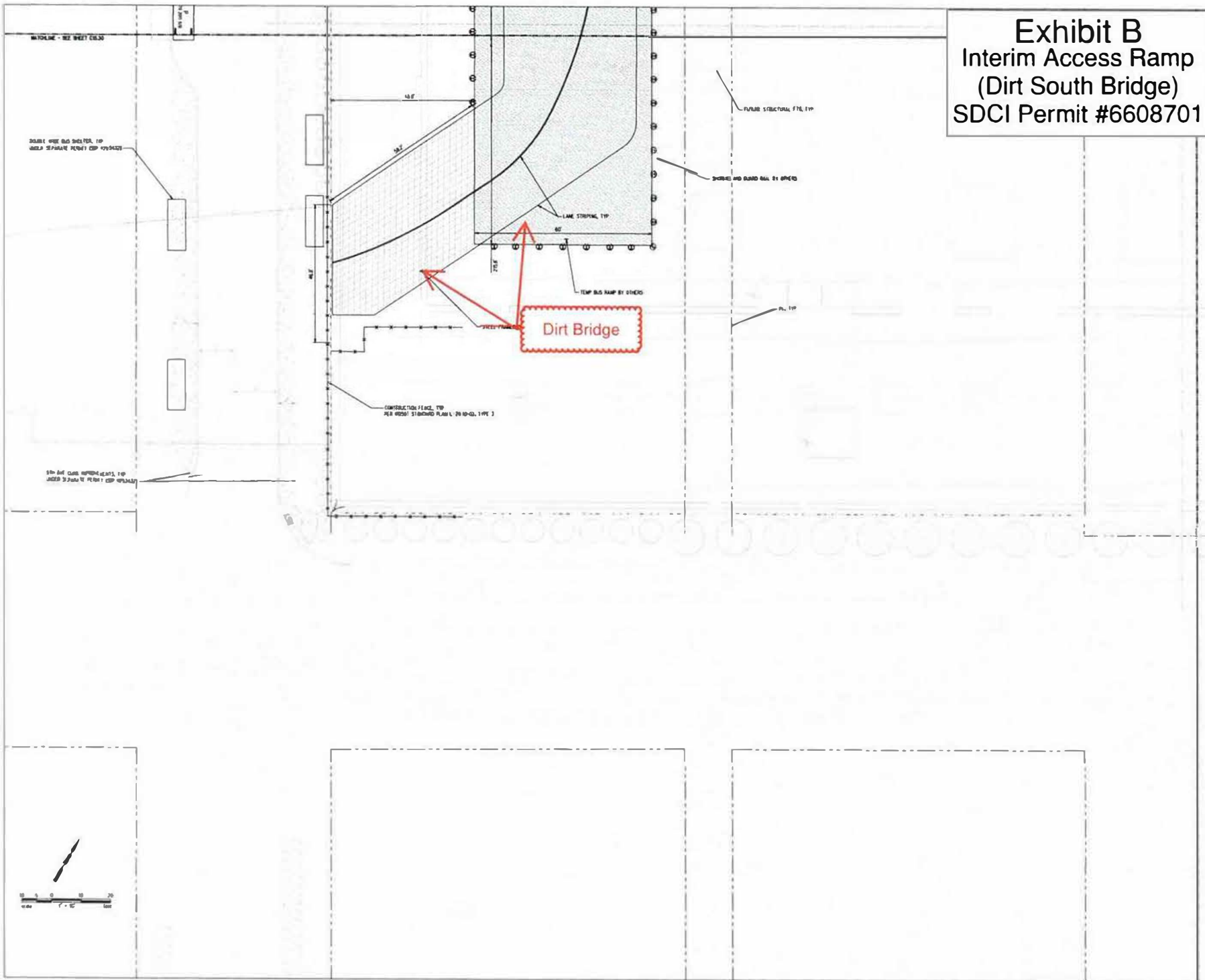


Exhibit B
Interim Access Ramp
(Dirt South Bridge)
SDCI Permit #6608701

LMN CONSULTANTS
 1000 1st Avenue, Suite 200
 Seattle, WA 98101
 (206) 464-1000
 www.lmn.com

**MAGNUSSON
 KLEMENCIC
 ASSOCIATE**
 Structural - Civil Engineer
 1400 1st Avenue, Suite 200
 Seattle, WA 98101
 (206) 464-1000
 www.mka.com

SDCI MUP
 NUMBER: 3022912

King County
 Metro Site Work

Master Use Permit



Drawn: [blank]
 Checked: [blank]
 Date: [blank]

**SITE PLAN -
 AREA E**

C15.03

EXHIBIT C

[Reserved]

EXHIBIT D

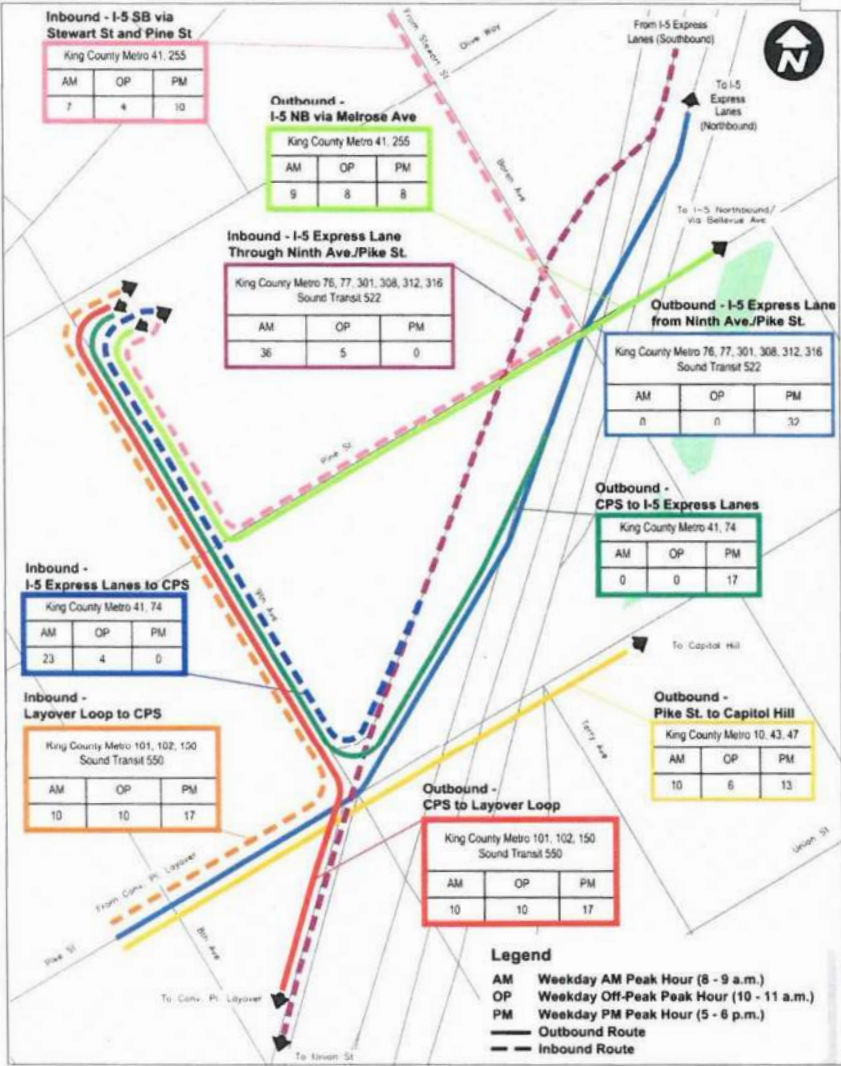
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EXHIBIT E

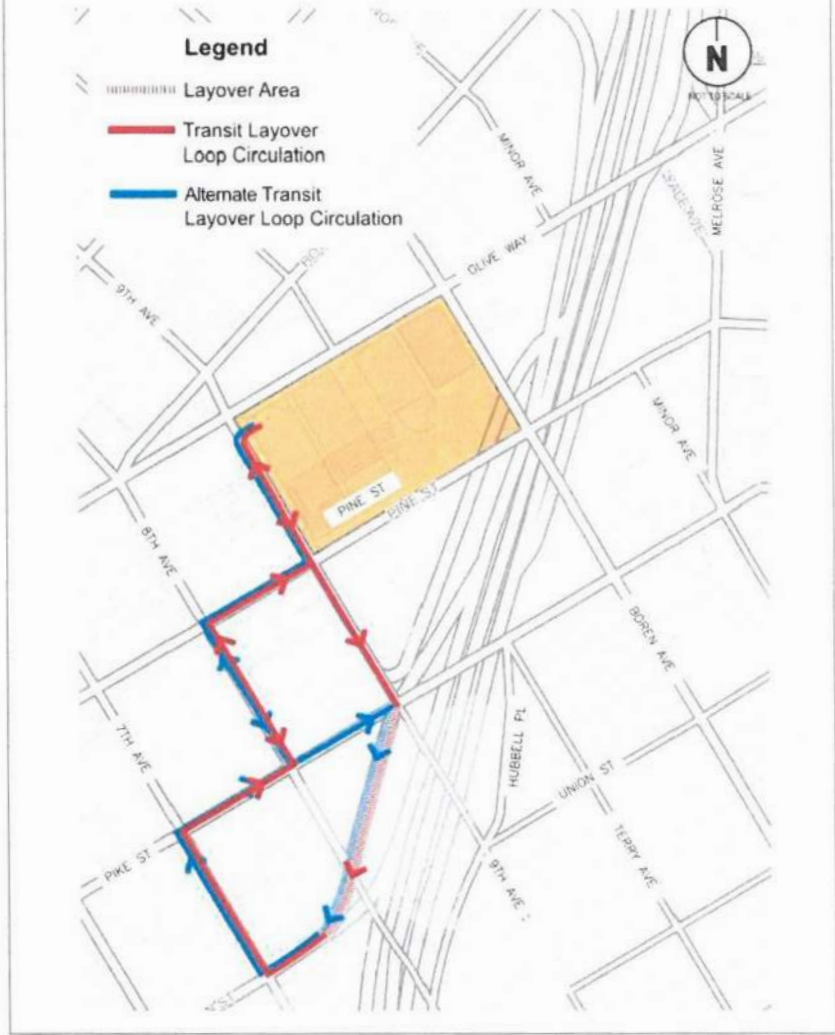
King County Bus Layover Loop

Exhibit E

King County Bus Layover Loop
SIP #293432
(Layover Loop Plan)



KING COUNTY METRO ROUTING



LAYOVER LOOP ROUTING

90% SUBMITTAL

NOTE
THIS PLAN SHEET IS INFORMATIONAL ONLY.

transpogroup
WHAT TRANSPORTATION CAN BE
12131 112TH AVENUE NE, SUITE 203
KIRKLAND, WASHINGTON 98034
(TEL) 425 821-3685
(FAX) 425 825-8434

REVIEWED BY SPU/WATER ENGINEERING	20	NAME OR INITIALS AND DATE	DESIGNED: JWH 12/14/17	INITIALS AND DATE	REVIEWED:
REVIEWED BY SPU/DRAINAGE	20		CHECKED: JAC 12/14/17	PROJECT MANAGER	
APPROVED BY SOOT STREET IMPROVEMENT PERMITTING	20		DRAWN: JWH 12/14/17	DESIGN REVIEW	REVISED AS-BUILT:
	20		CHECKED: JAC 12/14/17		

All work shall be in accordance with the City of Seattle Standard Plans and Specifications or other applicable standards, codes, and regulations for Special Provisions.

City of Seattle
Seattle Department of Transportation

KING COUNTY METRO BUS LAYOVER LOOP DPD PROJECT # 293432

906 PINE ST
ROUTING FIGURES

SOOT PROJECT NO.	
SHEET PLAN NO.	
SHEET SERIAL NO.	
SHEET 28 OF 68	

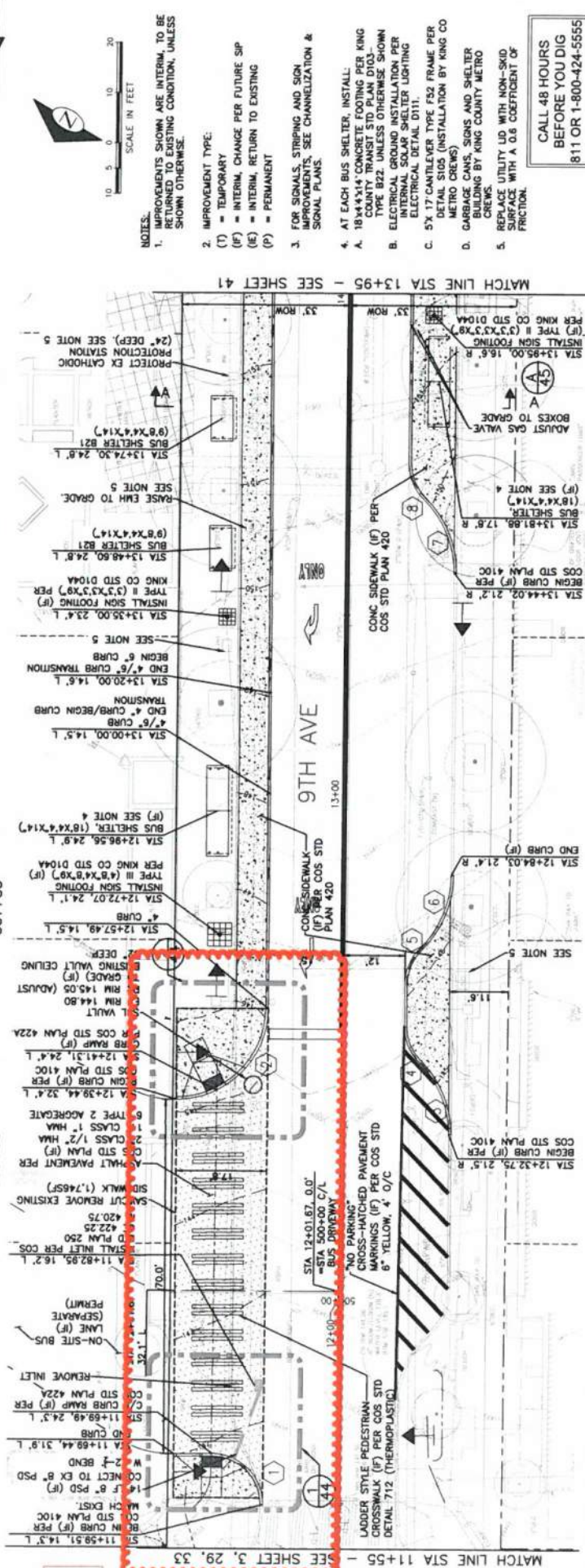
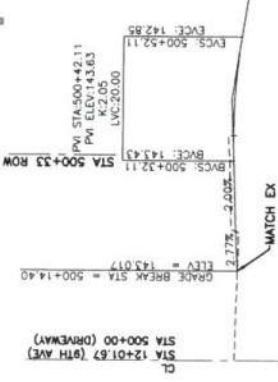
Exhibit E

King County Bus Layover Loop
SJP #293432
(Revised Curb Cut)

60% Complete Street Improvement Plan

Not For Construction

STATION	PC	L	R	Δ	CURB RETURN TABLE				STA PT LOCATION
					STA PC LOCATION	FLOW LINE ELEVATION			
					1/4	1/2	3/4	PT	
1	11+59.51	14.28'	LT	90'	141.39	141.66	141.80	141.93	11+69.49, 24.30' LT
2	12+39.44	32.36'	LT	90'	145.10	145.13	145.24	145.33	12+57.49, 14.41' LT
3	12+32.75	21.52'	RT	46'	143.91	144.13	144.36	144.59	12+47.00, 15.44' RT
4	12+47.00	15.44'	RT	45'	144.81	144.91	145.02	145.22	12+54.17, 12.39' RT
5	12+62.48	12.38'	RT	46'	145.61	145.71	145.76	145.81	12+69.64, 15.38' RT
6	12+69.64	15.38'	RT	46'	145.90	145.99	146.08	146.17	12+84.03, 21.37' RT
7	13+44.02	21.23'	RT	46'	148.75	148.96	149.17	149.39	13+58.42, 15.08' RT
8	13+58.42	15.08'	RT	46'	149.60	149.70	149.80	149.89	13+65.63, 12.00' RT



Curb Cut Exhibit E-2

- NOTES:
- IMPROVEMENTS SHOWN ARE INTERIM. TO BE RETURNED TO EXISTING CONDITION, UNLESS SHOWN OTHERWISE.
 - IMPROVEMENT TYPE:
 - (T) = TEMPORARY
 - (IF) = INTERIM, CHANGE PER FUTURE SJP
 - (E) = INTERIM, RETURN TO EXISTING
 - (P) = PERMANENT
 - FOR SIGNALS, STRIPING AND SIGN IMPROVEMENTS, SEE CHANNELIZATION & SIGNAL PLANS.
 - AT EACH BUS SHELTER, INSTALL:
 - A. 18"x44"x14" CONCRETE FOOTING PER KING COUNTY S.D. PLAN 010.00, TYPE B22 UNLESS OTHERWISE SHOWN
 - B. ELECTRICAL GROUND INSTALLATION PER ELECTRICAL DETAIL 011.
 - C. 5"x 17" CANTILEVER TYPE F52 FRAME PER DETAIL S103 (INSTALLATION BY KING CO METRO CREWS)
 - D. GARBAGE CANS, SIGNS AND SHELTER BUILDING BY KING COUNTY METRO CREWS
 - E. REPLACE UTILITY UD WITH NON-SKID SURFACE WITH A 0.8 COEFFICIENT OF FRICTION.

CALL 48 HOURS BEFORE YOU DIG
811 OR 1-800-424-5555

DPD PROJECT # 293432

City of Seattle
Seattle Department of Transportation

City of Seattle
SJP #293432
VALLEY PLAN NO.
VALLEY SERIAL NO.
SHEET 40 OF 47

906 PINE STREET
PAVEMENT PLAN
9TH AVE

REVIEWED BY SPU/WATER ENGINEERING: [Signature]

REVIEWED BY SPU/DRAINAGE: [Signature]

APPROVED BY SDOT STREET IMPROVEMENT PERMITTING: [Signature]

NAME OF INITIALS AND DATE: [Signature]

REVIEWED: [Signature]

PROJECT MANAGER: [Signature]

REVIEWED AS-BUILT: [Signature]

DATE: 12/20/17

DESIGNED BY: [Signature]

CHECKED BY: [Signature]

DATE: 12/20/17

SCALE: 1" = 10' & N/A

INSTRUCTIONS BOOK

EXHIBIT F

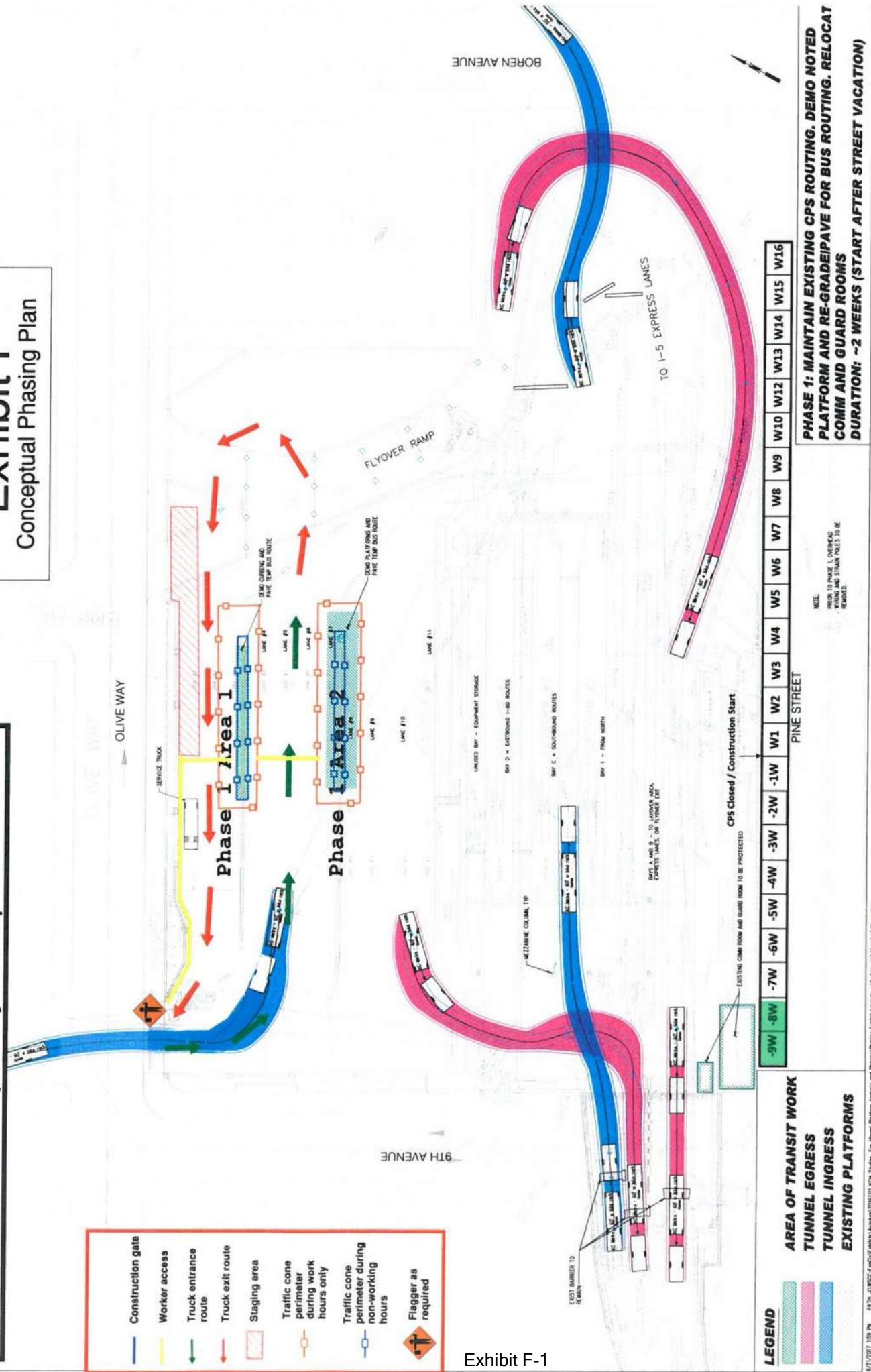
Conceptual Phasing Plan

9th Avenue Temporary Ramp - Phase 1

12/15/17

Exhibit F Conceptual Phasing Plan

- Construction gate
- Worker access
- Truck entrance route
- Truck exit route
- Staging area
- Traffic cone perimeter during work hours only
- Traffic cone perimeter during non-working hours
- Flagger as required



- AREA OF TRANSIT WORK
- TUNNEL EGRESS
- TUNNEL INGRESS
- EXISTING PLATFORMS

-9W	-8W	-7W	-6W	-5W	-4W	-3W	-2W	-1W	W1	W2	W3	W4	W5	W6	W7	W8	W9	W10	W11	W12	W13	W14	W15	W16
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PHASE 1: MAINTAIN EXISTING CPS ROUTING. DEMO NOTED PLATFORM AND RE-GRADE/PAVE FOR BUS ROUTING. RELOCAT COMM AND GUARD ROOMS
DURATION: ~2 WEEKS (START AFTER STREET VACATION)

MAGNUSSON
KLEMENCIC
ASSOCIATES
Structural + Civil Engineers

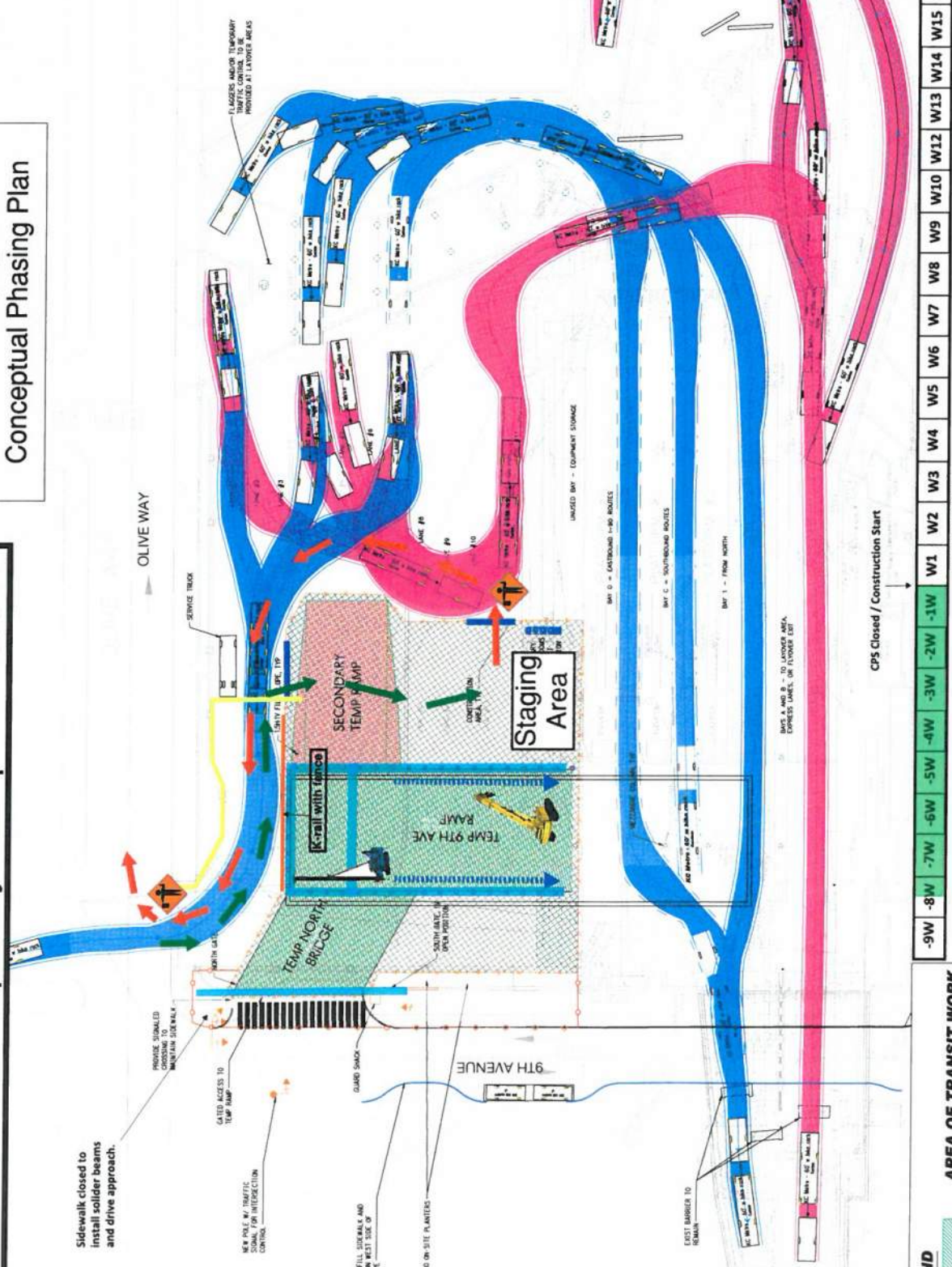
Exhibit F-1

9th Avenue Temporary Ramp - Phase 2

Exhibit F Conceptual Phasing Plan

12/15/17

- Construction gate
- Worker access
- Truck entrance route
- Truck exit route
- Work flow
- Flagger as required
- Shoring installed this phase
- Fence



-9W	-8W	-7W	-6W	-5W	-4W	-3W	-2W	-1W	W1	W2	W3	W4	W5	W6	W7	W8	W9	W10	W11	W12	W13	W14	W15	W16
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- LEGEND
- AREA OF TRANSIT WORK
- TUNNEL EGRESS
- TUNNEL INGRESS
- EXISTING PLATFORMS

PHASE 2: TEMP 9TH RAMP PARTIAL CONSTRUCTION. CIRCULATION CHANGES (8 STAGING SPOTS). LAYOVER LOOP CONSTRUCTION. PARTIAL MEZZANINE DEMO. REPLACEMENT TPSS TO BE COMPLETED. DURATION: 6-8 WEEKS

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KLEMMENCIC
ASSOCIATES
Structural + Civil Engineers

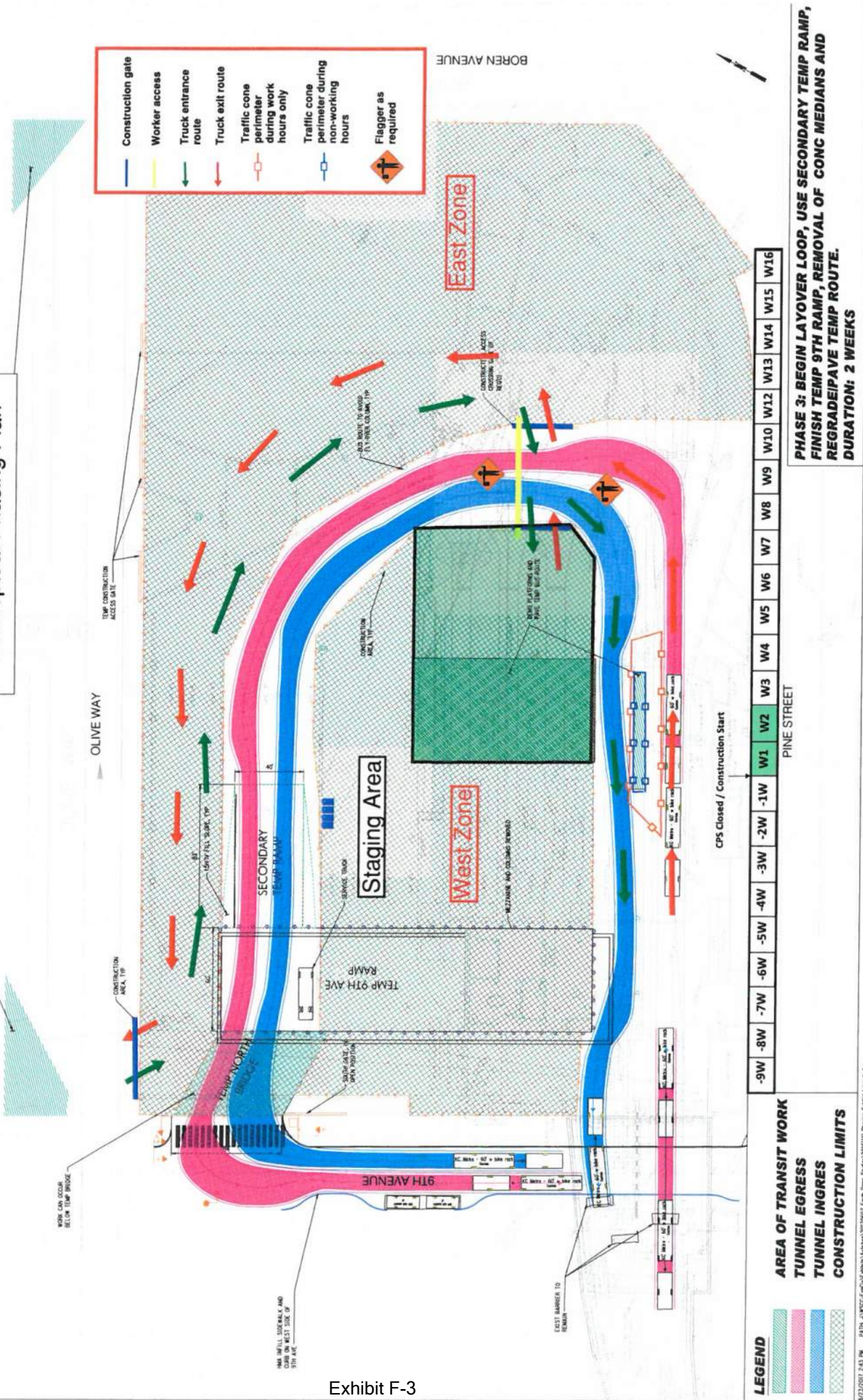
WSSC - CPS PHASING EXHIBITS
Page 2 of 7

Exhibit F-2

9th Avenue Temporary Ramp - Phase 3

Exhibit F Conceptual Phasing Plan

12/15/17



LEGEND
 AREA OF TRANSIT WORK
 TUNNEL EGRESS
 TUNNEL INGRES
 CONSTRUCTION LIMITS

PHASE 3: BEGIN LAYOVER LOOP, USE SECONDARY TEMP RAMP, FINISH TEMP 9TH RAMP, REMOVAL OF CONC MEDIANS AND REGRADE/PAVE TEMP ROUTE. DURATION: 2 WEEKS

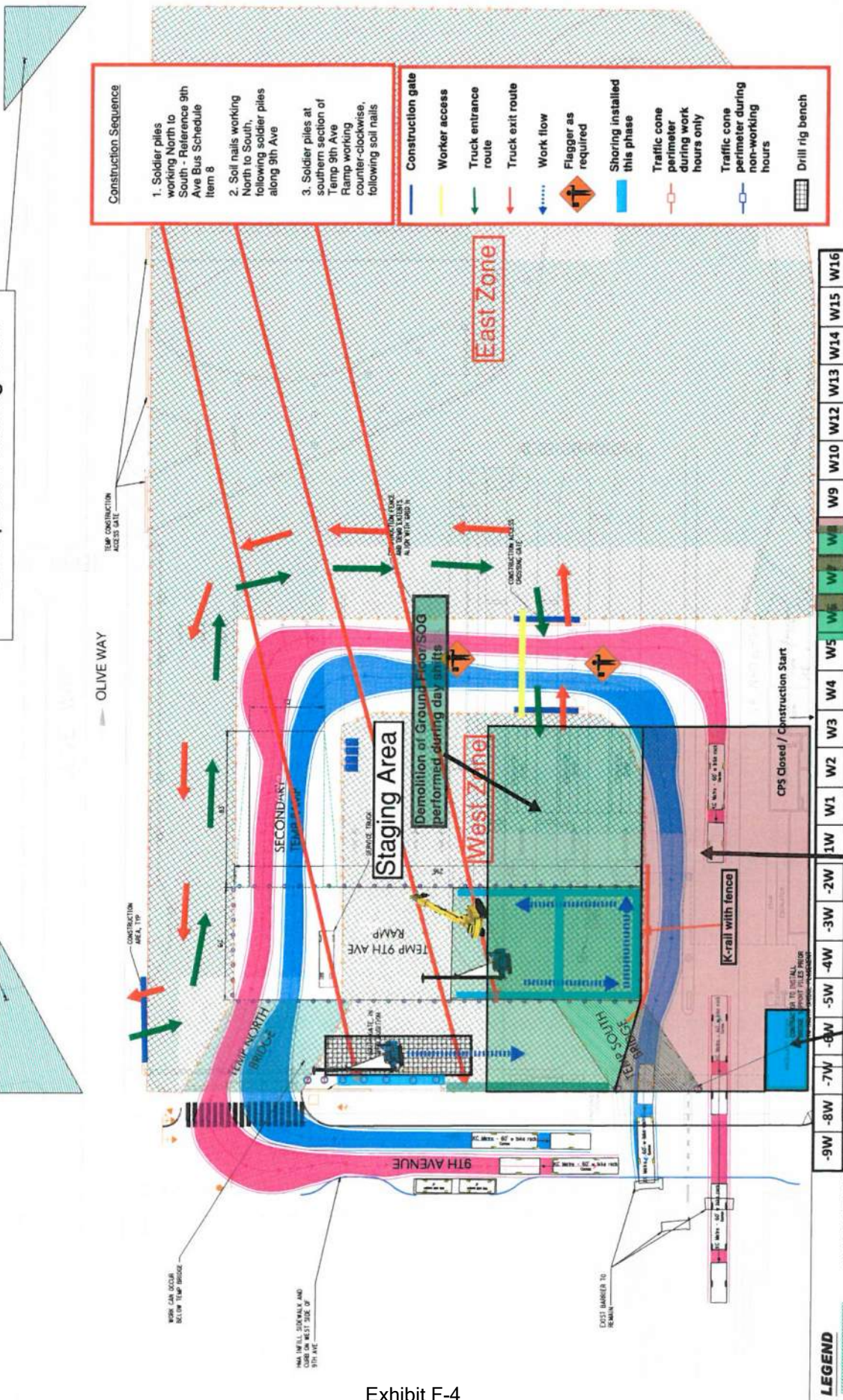
MAGNUSSON
 KLEMENCIC
 ASSOCIATES
 Structural & Civil Engineers

Exhibit F-3

9th Avenue Temporary Ramp - Phase 4A

Exhibit F Conceptual Phasing Plan

12/15/17



Construction Sequence

1. Soldier piles working North to South - Reference 9th Ave Bus Schedule Item 8
2. Soil nails working North to South, following soldier piles along 9th Ave
3. Soldier piles at southern section of Temp 9th Ave Ramp working counter-clockwise, following soil nails

Construction gate

- Worker access
- Truck entrance route
- Truck exit route
- Work flow
- Flagger as required
- Shoring installed this phase
- Traffic cone perimeter during work hours only
- Traffic cone perimeter during non-working hours
- Drill rig bench

PHASE 4: CIRCULATION CHANGE TO ALLOW FOR DEMO AND BEGIN OF CONSTRUCTION EAST OF GRID H. DEMO OF MEZZANINE; COMPLETION OF 9TH STREET WALL DURATION: 4-6 WEEKS

Demolition of Platform/Mezzanine performed on weekends closures

Comm Room - Protect in Place

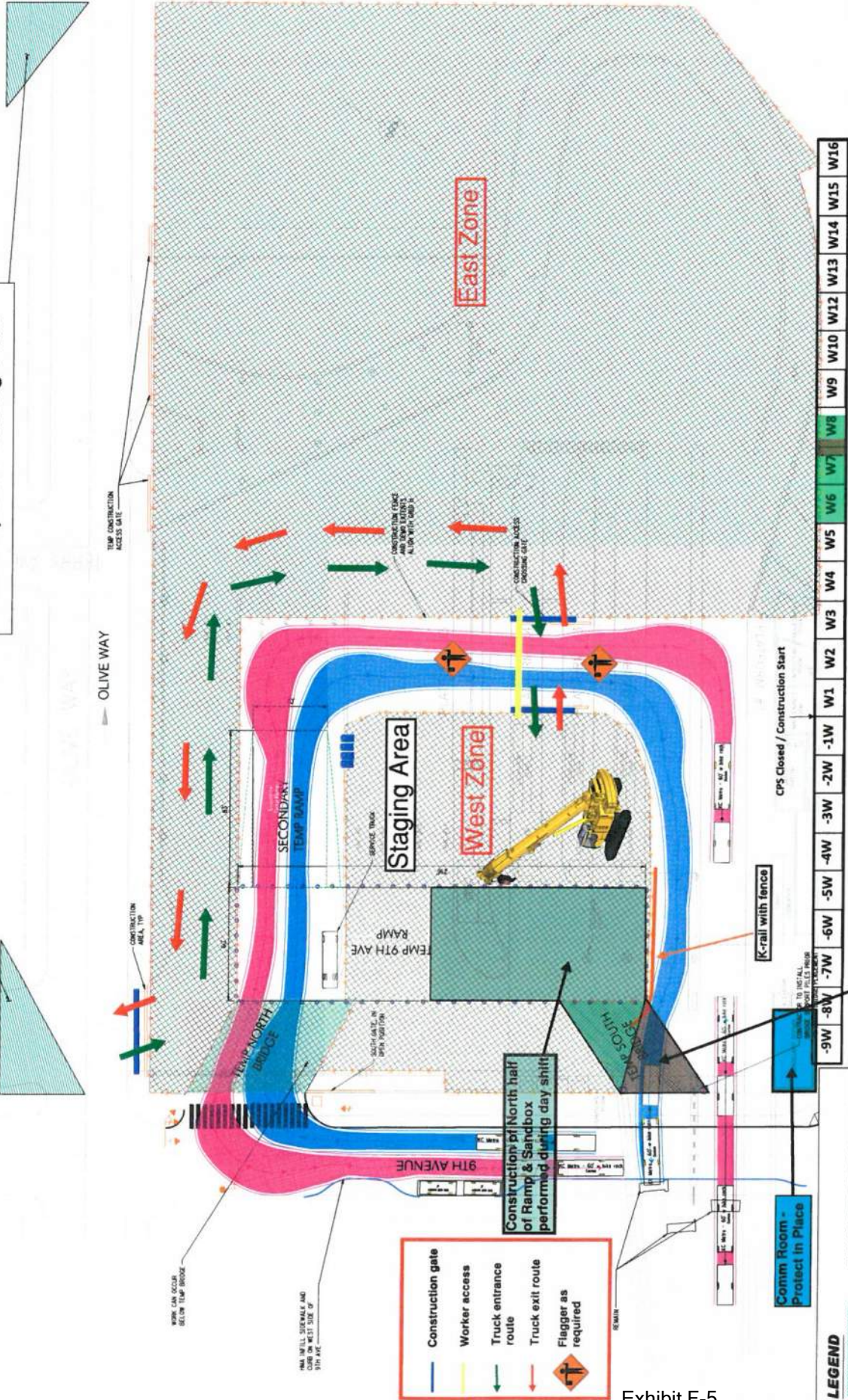
MAGNUSSON KLEMENCIC ASSOCIATES
Structural + Civil Engineers

Exhibit F-4

9th Avenue Temporary Ramp - Phase 4B

Exhibit F Conceptual Phasing Plan

12/15/17



- Construction gate
- Worker access
- Truck entrance route
- Truck exit route
- Flagger as required

- AREA OF TRANSIT WORK
- TUNNEL EGRESS
- TUNNEL INGRESS
- CONSTRUCTION LIMITS

Construction of South half of Ramp performed on weekend closure only

PINE STREET

CPS Closed / Construction Start

-9W	-8W	-7W	-6W	-5W	-4W	-3W	-2W	-1W	W1	W2	W3	W4	W5	W6	W7	W8	W9	W10	W12	W13	W14	W15	W16
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PHASE 4: CIRCULATION CHANGE TO ALLOW FOR DEMO AND BEGIN OF CONSTRUCTION EAST OF GRID H. TEMP SOUTH BRIDGE PLACEMENT AND SOUTH OF SANDBOX COMPLETION
DURATION: 4-6 WEEKS

MAGNUSSON
 KLEMENCIC
 ASSOCIATES
 Structural & Civil Engineers

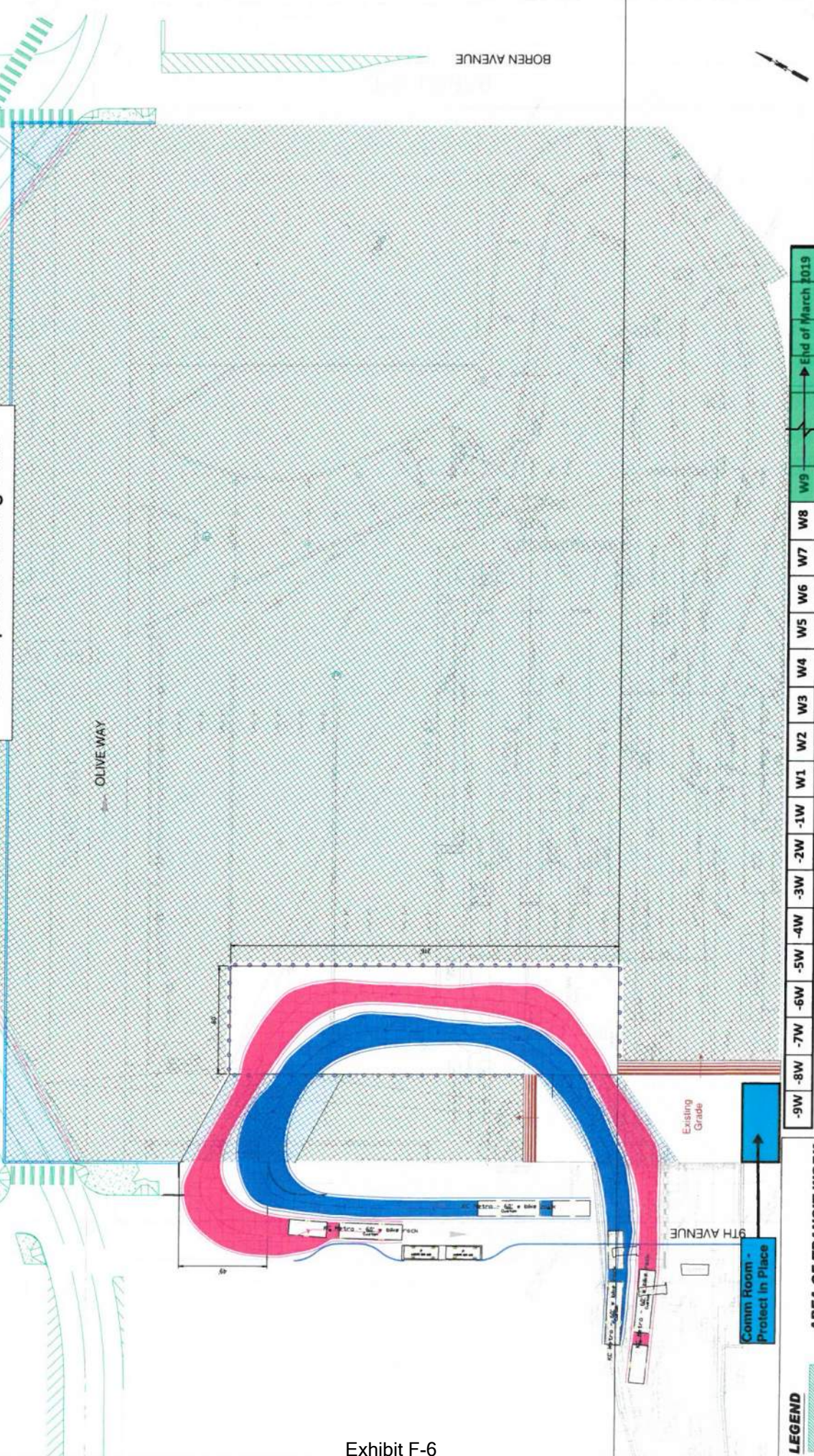
WSSC - CPS PHASING EXHIBITS
 Page 5 of 7

Exhibit F-5

9th Avenue Temporary Ramp - Phase 5

Exhibit F Conceptual Phasing Plan

12/15/17



LEGEND

[Pink hatched box]	AREA OF TRANSIT WORK
[Blue hatched box]	TUNNEL EGRESS
[Light blue hatched box]	TUNNEL INGRES
[Green hatched box]	CONSTRUCTION LIMITS

**Comm. Room
Protect in Place**

**Existing
Grade**

- 9W
 - 8W
 - 7W
 - 6W
 - 5W
 - 4W
 - 3W
 - 2W
 - 1W
 - W1
 - W2
 - W3
 - W4
 - W5
 - W6
 - W7
 - W8
 - W9
- PINE STREET

PHASE 5: 9TH AVE RAMP IN USE. TEMP OLIVE REROUTE BEGINS. FULL CPS SITE DEMO.

DURATION: TBD

NOTE:

1. THIS AREA REPRESENTS REDUCTION OF 2 PARKING SPACES FOR TURNING MOVEMENT AND 1 CROSSING SPACE FOR TEMPORARY CROSSING.

8/20/2017 2:04 PM Path: J:\MSDC\csc\csh\work\20181111\08\3\Drawn_L1.rvt Project: Prelim Analysis and Phasing/Phasing Exhibit Layouts with Area and Impact patterns.dwg

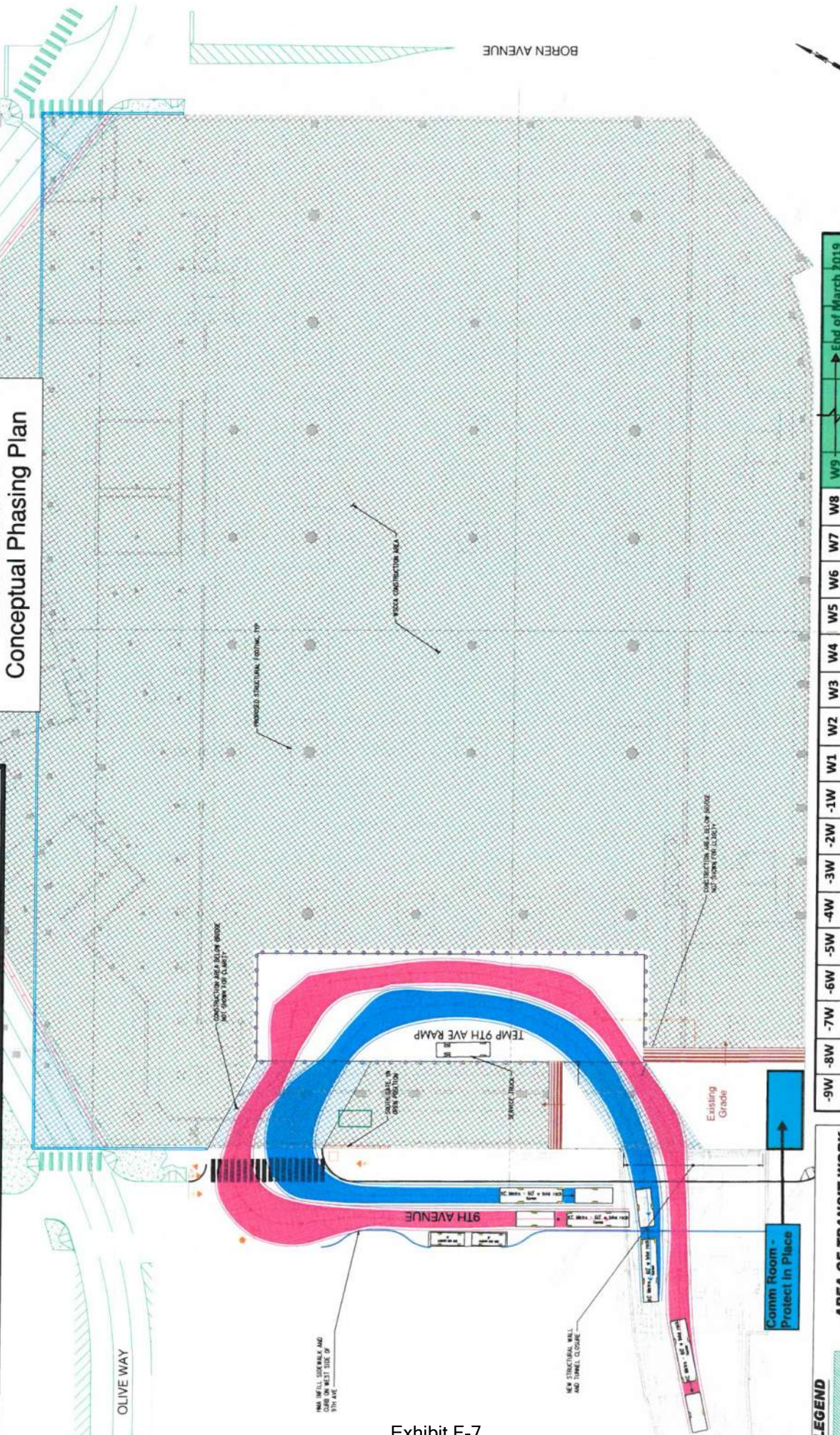


Exhibit F-6

12/15/17

Exhibit F Conceptual Phasing Plan

9th Avenue Temporary Ramp - Phase 6



PHASE 6: SITE EXCAVATION AROUND RAMP OCCURS. STRUCTURAL FOUNDATIONS PLACED AND SUB-GRADE CONSTRUCTION BEGINS. DURATION: N/A

-9W	-8W	-7W	-6W	-5W	-4W	-3W	-2W	-1W	W1	W2	W3	W4	W5	W6	W7	W8	W9
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End of March 2019

MAGNUSSON
KLEMMENCIC
ASSOCIATES
Structural & Civil Engineers

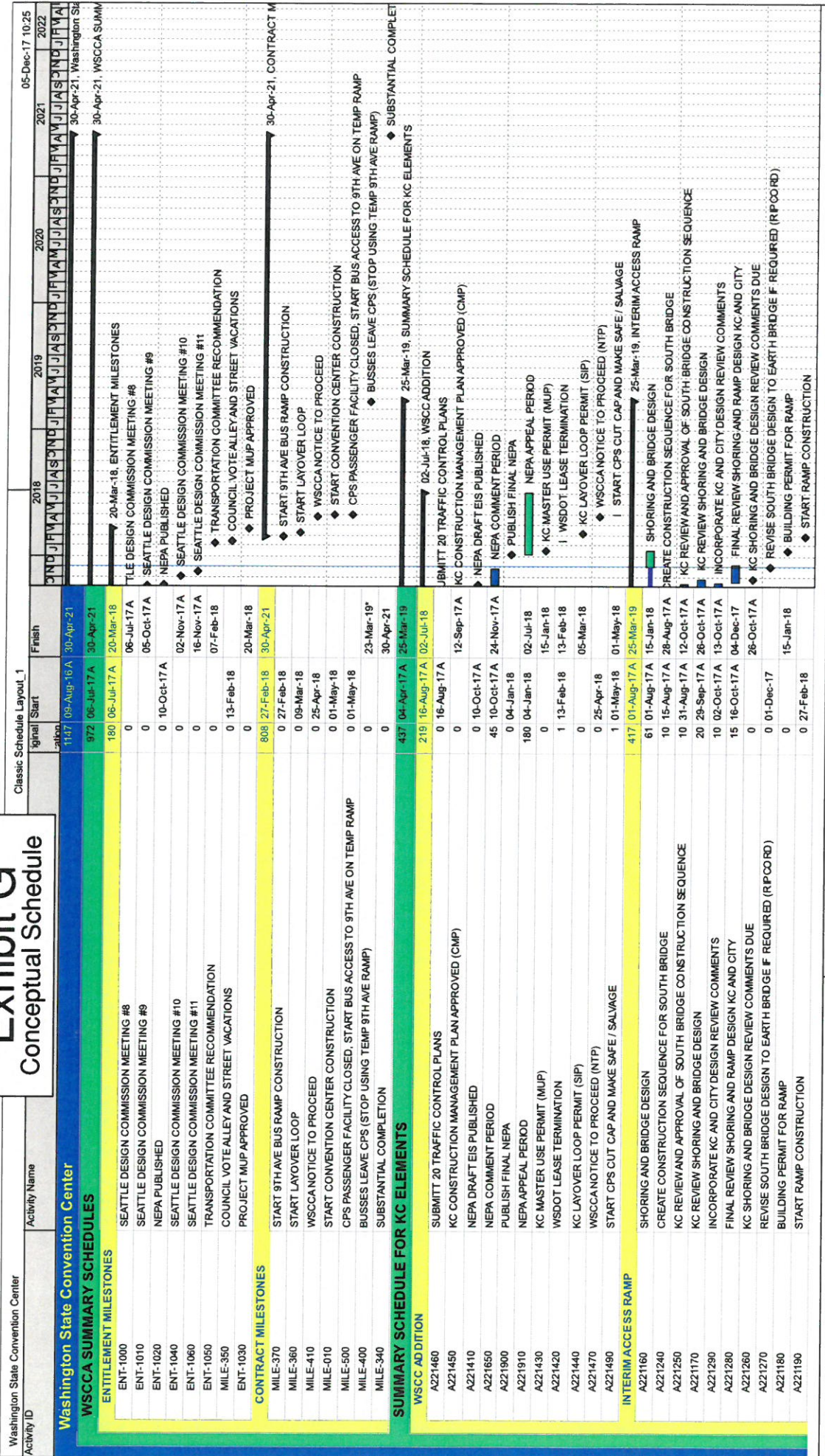
Exhibit F-7

6/12/2017 1:52 PM P:\314 - WSSC - CPS - Exhibits\Submittals\20170607 - Exhibits - Tables\20181111 - Phasing Exhibit - Legend.rvt

EXHIBIT G

Conceptual Schedule

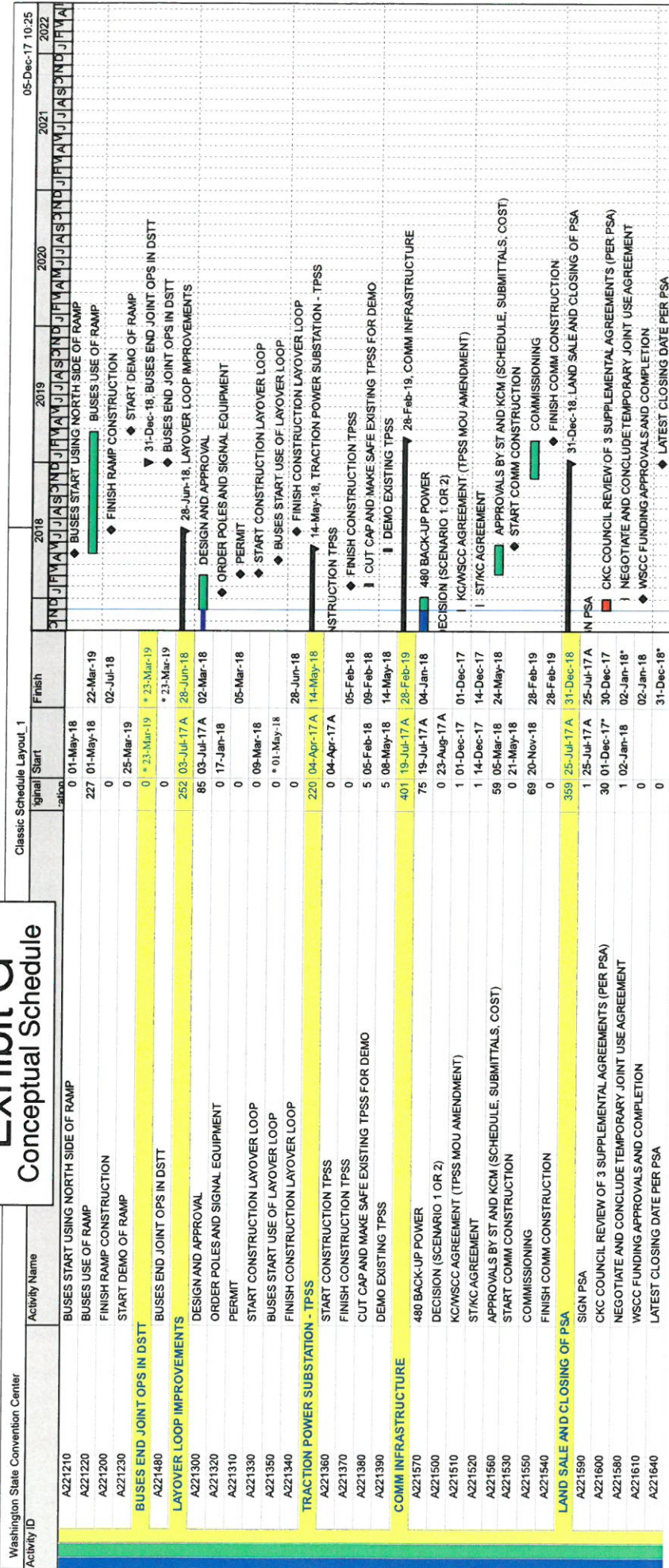
Exhibit G Conceptual Schedule



Data Date: 01-Dec-17 / Run Date 05-Dec-17
 Page 1 of 38
 Project ID 113570MSTR
 WSCCA Draft Schedule
 Draft November 2017 Update

Exhibit G-1

Exhibit G Conceptual Schedule



* Satisfying Ramp Commencement Date Requirements about 5/1/18. - From Kyle Acheson 1/9/18

Washington State Convention Center

Classic Schedule Layout, 1

05-Dec-17 10:25

2021

2020

2019

2018

A JOINT VENTURE

Data Date: 01-Dec-17 (Run Date 05-Dec-17)

Page 2 of 38

Project ID 113570MSTR

WSCC Draft Schedule

Draft November 2017 Update

Page 2 of 2

EXHIBIT H

[Reserved]

EXHIBIT I

DSTT Access Work

The work to facilitate the DSTT access is shown by Phases in Exhibit F. The length of each Phase and its position relative to the full construction start is shown at the bottom of each sheet.

Phase 1: This work is included in the permit referenced in Exhibit A. As shown on the Phase 1 sheet, it includes existing CPS routing and limited demolition. Temporary bus layover space shall be provided at CPS for a minimum of 9 coaches.

Phase 2: This work is also included in the permit referenced in Exhibit A. As shown on the Phase 2 sheet, it includes some circulation changes to allow for demolition in the northwest quadrant of the block bounded by 9th Avenue, Olive Way, Boren Avenue and Pine Street (the “**Block**”) and construction of the ramp in this area. Because of the noise for this work and City requirements, most of it will be done during daytime working hours. Layover loop construction is substantially completed with SDOT approval for use. Lanes #1, #2 and #3 are all available for Metro access to the DSTT. Temporary bus layover space shall be provided at CPS for a minimum of 9 coaches.

Phase 3: This work will not start until the MUP for the WSCC Addition is granted. Before the start of this Phase 3, the steps for the Ramp Commencement Date shall have been satisfied, and the bus operations switch to the layover loop and the 9th Avenue bus stops with a new security booth available for operations on 9th Avenue. The CPS passenger facility is closed and partially demolished. The existing barrier booth needs to function in its current location until relocated at the beginning of Phase 5 and thus will be protected by WSCC’s general contractor.

Phase 4A: Buses continue to operate on the layover loop. Bus routing through CPS shifts slightly to allow for work to continue on the east half of the Block. The passenger facilities, including the mezzanine, are demolished over a series of weekend closures.

Phase 4B: Construction of temporary south bridge performed on weekend closures, and construction of addition continues on east portion of the Block.

Phase 5: 9th Avenue ramp is completed and in full use. The remainder of the Block is available for demolition, except for the existing barrier booth, communications room and all ancillary systems, which shall remain in place until relocated.

Phase 6: Excavation around the ramp starts and foundation concrete is placed.

EXHIBIT J

Estimated Budget

Exhibit J

Estimated Budget - Dirt Ramp

	Budget 12/13/2017	
Interim Access		
TTC management	24,000	
TTC design	0	
Ramp management	129,000	PSG budget 12/11/17
Design	809,000	
Builder's risk insurance	20,000	
Permits	50,000	
Legal	5,000	Foster Pepper cost
Construction	4,656,000	C/L estimate dated 11/28/2017 - Dirt Ramp
Construction contingency (6%)	0	\$251K included with construction costs
Owner / project contingency (approx. 3%)	170,000	
B&O Tax (0.71%)	43,000	Added due to state revenue ruling
WSST (10.1 %)	235,000	On equipment costs only
Total cost with 80/20 cost sharing	6,141,000	
KCM cost (80%)	4,913,000	KCM capped at \$4mm - see summary below
WSCC cost (20%)	1,228,000	

Total cost when KCM costs are capped at \$4mm	6,141,000
KCM cost	4,000,000
WSCC cost	2,141,000

Budget Progressions N/A Dirt ramp option was not included in monthly updates

- Notes:
1. WSST is calculated at 9.6% for work anticipated prior to 4/1/17 and at 10.1% for work anticipated after 4/1/17.
 2. Department of Revenue: WSST not owed on labor portion of Clark/Lewis or Siemens bills. B&O tax owed on full reimbursement.
 3. Some subcontracted work will be lump sum. All other work is 100% returned savings to owner.

KA: 12/13/2017

Exhibit J

Estimated Budget - Dirt Ramp



A JOINT VENTURE

Washington State Convention Center Expansion Project
Temporary 9th Avenue Bus Ramp Options

November 28, 2017

PARTIAL DIRT RAMP	BRIDGE RAMP
--------------------------	--------------------

<u>Item Description</u>	<u>Qty</u>	<u>Unit</u>	<u>Unit Price</u>	<u>Total</u>	<u>Item Description</u>	<u>Qty</u>	<u>Unit</u>	<u>Unit Price</u>	<u>Total</u>
Shoring	3,281	SF	\$ 85.00	\$ 278,906	Shoring (DBM)	1	LS	\$ 2,389,000.00	\$ 2,389,000
Shoring (DBM)	1	LS	\$ 1,194,500.00	\$ 1,194,500	Backfill	12,287	CY	\$ 50.00	\$ 614,340
Backfill	11,037	CY	\$ 50.00	\$ 551,840	Paving	20,693	SF	\$ 20.00	\$ 413,860
Paving	18,893	SF	\$ 20.00	\$ 377,860	Misc. demolition	1	LS	\$ 25,000.00	\$ 25,000
Misc. demolition	1	LS	\$ 25,000.00	\$ 25,000	Curb cut/street patch	60	LF	\$ 250.00	\$ 15,000
Curb cut/street patch	60	LF	\$ 250.00	\$ 15,000	Curb	913	LF	\$ 45.00	\$ 41,085
Curb	853	LF	\$ 45.00	\$ 38,385	Railings	913	LF	\$ 425.00	\$ 388,025
Railings	853	LF	\$ 450.00	\$ 383,850	Bridge Structure	-	SF	\$ -	In DBM
Bridge Structure	-	SF	\$ 100.00	In DBM	Removal	20,693	SF	\$ 15.00	\$ 310,395
Removal	18,893	SF	\$ 15.00	\$ 283,395	Fencing/Barricade	650	LF	\$ 150.00	\$ 97,500
Fencing/Barricade	650	LF	\$ 150.00	\$ 97,500	Additional Mobilization	1	LS	\$ 100,000.00	\$ 100,000
Additional Mobilization	1	LS	\$ 100,000.00	\$ 100,000	Guard Shed	1	LS	\$ 20,000.00	\$ 20,000
Guard Shed	1	LS	\$ 20,000.00	\$ 20,000	Lighting	1	LS	\$ 100,000.00	\$ 100,000
Lighting	1	LS	\$ 100,000.00	\$ 100,000					
General Conditions				\$ 167,484	General Conditions				\$ 167,484
Negotiated Site Services				\$ 309,300	Negotiated Site Services				\$ 309,300

O&P, Insurance, Bonds, etc.:	\$ 3,943,021	O&P, Insurance, Bonds, etc.:	\$ 4,990,989
Escalation:	\$ 251,565	Escalation:	\$ 265,471
Contingency:	\$ 251,675	Contingency:	\$ 318,565
\$ 4,655,990	\$ 4,194,585	\$ 5,309,414	\$ 5,893,450
Rounded: \$4,656,000			

EXHIBIT K

Form Temporary Access, Operation and Maintenance Easement

Exhibit K

RECORDED AT THE REQUEST OF
AND AFTER RECORDING RETURN TO:

Pine Street Group L.L.C.
1500 Fourth Avenue, Suite 600
Seattle, Washington 98101
Attention: Matt Griffin

ACCESS EASEMENT AGREEMENT

GRANTOR: **WASHINGTON STATE CONVENTION CENTER
PUBLIC FACILITIES DISTRICT**, a King County
public facilities district

GRANTEE: **KING COUNTY**, a home-rule charter county and
political subdivision of the State of Washington

**ABBREVIATED LEGAL
DESCRIPTION:** Complete legal description on Exhibit A.

**ASSESSOR'S TAX PARCEL
ID NOS.:** 0660001025; 0660001700

Exhibit K

ACCESS EASEMENT AGREEMENT [CPS Site Post-Closing]

This Access Easement Agreement (this “**Agreement**”) is made this ____ day of _____, 201[] [will be date of closing under PSA], by and between WASHINGTON STATE CONVENTION CENTER PUBLIC FACILITIES DISTRICT, a King County public facilities district (“**Grantor**”) and KING COUNTY, a home-rule charter county and political subdivision of the State of Washington (“**Grantee**”).

RECITALS:

A. Grantor is the owner of that certain property located in King County, Washington legally described in Exhibit A attached hereto and incorporated herein (the “**Grantor Property**”). The Grantor Property is the former site of the Convention Place Station transit station which is under development for purposes of expanding the existing convention center in Seattle, Washington (the “**WSCC Addition**”). Grantor purchased the Grantor Property from Grantee pursuant to that certain Purchase and Sale Agreement dated as of July 25, 2017, as amended (the “**Purchase Agreement**”).

B. Grantor and Grantee are parties to that certain Temporary Joint Use Agreement dated as of [] (the “**TJUA**”) pursuant to which Grantee is entitled to use a portion of the Grantor Property for purposes of continuing transit operations of King County Metro through the Grantor Property to the Downtown Seattle Transit Tunnel (the “**DSTT**”) until the DSTT Termination Date (as defined in the Purchase Agreement). All capitalized terms not defined herein shall have the meanings set forth in the TJUA. Pursuant to the terms of the TJUA, Grantor is obligated to construct a temporary ramp for access by King County Metro buses from 9th Avenue to the DSTT (the “**Interim Access Ramp**”). Until such time as the Interim Access Ramp is operational, Grantee is entitled to use the existing ramp for access by King County Metro buses as shown on Exhibit B attached hereto (the “**Existing Ramp**”) and, commencing on the Ramp Commencement Date, the Secondary Temporary Ramp, as shown on Exhibit F (Phase 3) to the TJUA. The Interim Access Ramp is shown on Exhibit F (Phase 5) to the TJUA.

C. In connection with the use of the Existing Ramp, Secondary Temporary Ramp and Interim Access Ramp, Grantee is entitled to use the existing communications room located in the southwest corner of the Grantor Property (“**Comm Room**”), and the existing barrier booth (“**Barrier Booth**”).

D. In connection with the TJUA, Grantor and Grantee desire to execute this Agreement to establish for the benefit of Grantee an access easement over a portion of the Grantor Property on the terms and conditions as set forth herein.

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Exhibit K

NOW, THEREFORE, the parties agree as follows:

1. Grant of Access Easement to Grantee. Subject to the conditions described herein, on the date hereof and continuing until the DSTT Termination Date, Grantor hereby grants to Grantee, its affiliates, employees, agents, guests, invitees and representatives temporary, exclusive access easements (subject to the terms of the TJUA) for: (a) ingress and egress by King County Metro buses over, across, and upon (i) the Existing Ramp until the Ramp Commencement Date (as defined in the TJUA), and (ii) following the Ramp Commencement Date, the Secondary Temporary Ramp and Interim Access Ramp, pursuant to the terms of the TJUA; (b) operation and maintenance of the Comm Room; and (c) operation and maintenance of the Barrier Booth.

2. Ramp Commencement Date. Upon the Ramp Commencement Date, Grantee's rights hereunder with respect to the Existing Ramp shall immediately cease.

3. No Obstructions. Until the DSTT Termination Date, Grantor covenants that access across the Existing Ramp, Secondary Ramp or the Interim Access Ramp (whichever ramp is then in use by Grantee pursuant to the TJUA), or to the Comm Room or Barrier Booth will not be impeded or interrupted, and that no fence, partition, or obstruction of any type or kind shall ever be placed, kept, permitted, or maintained on such area that would impede such access, except (i) as may be permitted in accordance with the TJUA, or (ii) as otherwise approved by Grantee, such approval not to be unreasonably withheld, conditioned or delayed. Grantor and Grantee shall cooperate with each other to ensure that King County Metro operations on the Interim Access Ramp do not materially interfere with Grantor's construction of the Project and that Grantor's construction does not materially interfere with King County Metro's operations and access to the DSTT.

4. Maintenance of Interim Access Ramp. Except as otherwise provided in this Agreement or the TJUA, Grantee shall be responsible for the upkeep and maintenance of the Secondary Temporary Ramp, Interim Access Ramp, Comm Room and Barrier Booth at Grantee's sole cost and expense. In performing such upkeep and maintenance, Grantee shall coordinate such activities with Grantor's contractors to minimize any interference with Grantor's construction activities. In the event that maintenance costs are incurred as a result of Grantor's actions or omissions, then Grantee shall have the right to perform such maintenance and seek reimbursement of the reasonable costs incurred as a result thereof from Grantor. Grantee shall maintain the Existing Ramp until its use is terminated as provided in Section 2 above.

5. Costs and Expenses. Except as otherwise set forth herein, Grantee shall be solely responsible for paying all costs and expenses related to Grantee's use of the Comm Room, Barrier Booth, Existing Ramp, Secondary Temporary Ramp and the Interim Access Ramp, as applicable, including, without limitation, all utility costs related to operating the

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Exhibit K

Comm Room, Barrier Booth, Existing Ramp, Secondary Temporary Ramp or the Interim Access Ramp, as applicable, remediation of any hazardous substances released by Grantee, claims from third parties and damage to the Interim Access Ramp resulting solely from Grantee's use. In the event Grantee fails to pay such expenses, Grantor shall have the right to pay such costs and seek reimbursement of the reasonable costs incurred as a result thereof from Grantee. Grantor shall be solely responsible for paying all costs and expenses related to remediation of any hazardous substances released by Grantor, claims from third parties and damage to the Comm Room, Barrier Booth, Existing Ramp, Secondary Temporary Ramp or Interim Access Ramp caused by Grantor. In the event Grantor fails to pay such expenses, Grantee shall have the right to pay such costs and seek reimbursement of the reasonable costs incurred as a result thereof from Grantor. In the event the Comm Room, Barrier Booth, Existing Ramp, Secondary Temporary Ramp or Interim Access Ramp is damaged by Grantor, Grantor shall immediately repair such damage at its sole cost and expense, to Grantee's reasonable satisfaction. If Grantor fails to do so, Grantee may repair the Existing Ramp, Secondary Temporary Ramp or Interim Access Ramp, as applicable, and seek reimbursement of the reasonable costs thereof from Grantor. Should any reimbursement obligation hereunder remain unpaid for thirty (30) days following payment of such costs by the paying party and demand for payment to the other party, the amount due shall accrue interest at the rate of 10% per annum until paid.

6. Indemnity; Insurance. To the extent permitted by applicable law, Grantee agrees for itself, its successors and assigns, to defend, indemnify and hold harmless Grantor, its contractors, directors and employees from and against liability for all costs, claims, damages, demands, suits, judgments and expense including costs of defense thereof including without limitation for injury to persons, death, or property damage, which is caused by the Grantee's negligent acts or omissions in the use of the Comm Room, Barrier Booth, Existing Ramp, Secondary Temporary Ramp or the Interim Access Ramp, as applicable, provided that any such claim or demand is not due to the negligent acts attributable to Grantor or its contractors. To the extent permitted by applicable law, Grantor agrees for itself, its successors and assigns, to defend, indemnify and hold harmless Grantee, its appointed and elected officials, agents and employees from and against liability for any and all costs, claims, damages, demands, suits, judgments and expenses including costs of defense thereof for injury to persons, death, or property damage which is caused by Grantor's negligent acts or omissions in the use of the Comm Room, Barrier Booth, Existing Ramp, Secondary Temporary Ramp or the Interim Access Ramp, as applicable, by Grantor, or interference with Grantee's use of the Comm Room, Barrier Booth, Existing Ramp, Secondary Temporary Ramp or the Interim Access Ramp, as applicable, or as a result of Grantor's construction of the WSCC Addition, provided that such claim or demand is not due to the negligent acts or omissions of the Grantee. In the event any such liability arises from the concurrent negligence of the indemnifying party and the other party, the indemnity obligations of this section shall apply only to the extent of the negligence of the indemnifying party and its actors. The obligations under this Section shall include the duty to properly accept tender of

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Exhibit K

defense and provide defense to the indemnified party at the indemnifying party's expense, indemnification of claims made by the indemnifying party's own employees or agents, and waiver of the indemnifying party's immunity under the industrial insurance provisions of Title 51 RCW, which waiver has been mutually negotiated by the parties. Grantor has advised Grantee that Grantor has obtained an Owner Controlled Insurance Policy ("OCIP") with respect to the construction of the WSCC Addition having the coverages and limitations as set forth therein, a copy of which has been provided to Grantee. On or before the date hereof, Grantor has delivered to Grantee an endorsement to the OCIP naming Grantee, as respects fully policy limits, as an additional insured for purposes described herein.

7. Notices. All notices, demands, requests, consents and approvals which may, or are required to, be given by any Party to any other Party hereunder shall be in writing and shall be deemed to have been duly given if (a) delivered personally, (b) sent by a nationally recognized overnight delivery service, or (c) if mailed or deposited in the United States mail and sent by registered or certified mail, return receipt requested, postage prepaid to:

Grantee: King County
Chinook Building
401 5th Ave Ste 810
Seattle, WA 98104
Attention: Director: Performance, Strategy and Budget

with copies to: King County Prosecuting Attorney
900 King County Administration Building
500 Fourth Avenue
Seattle, WA 98104-2316
Attention: Thomas Kuffel

Cairncross & Hempelmann
524 Second Avenue, Suite 500
Seattle, Washington 98104
Attention: Matt Hanna

Grantor: Washington State Convention Center Public Facilities District
800 Convention Place
Seattle, Washington 98101-2350
Attention: Jeff Blosser, President and CEO

With a copy to: Pine Street Group L.L.C.
1500 Fourth Avenue, Suite 600
Seattle, Washington 98101

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Exhibit K

Attention: Matt Griffin and Matt Rosauer

Either Party hereto may by proper notice made by the other Party designate such other address for giving of notices. All notices shall be deemed given on the day such notice is delivered (or if refused, the date of such refusal).

8. Dispute Resolution. In the event of a dispute between the Parties during the Term of this Agreement, the following terms and conditions shall apply:

Grantor's designee and the King County Executive, or its designee (the "**Designated Representatives**"), shall confer to resolve disputes that arise under this Agreement as requested by either Party. The Designated Representatives shall use their best efforts and exercise good faith to resolve such disputes. The following individuals are hereby designated as the Designated Representatives of the Parties for the purpose of resolving disputes that arise under this Agreement, and dispute resolution notices shall be sent to:

Grantor: Chairman, WSCC Board of Directors
800 Convention Place
Seattle, Washington 98101

Grantee: Deputy King County Executive
Chinook Building
401 Fifth Avenue, Suite 800
Seattle, Washington 98104

If the Parties are still unable to resolve the dispute, then either Party may pursue any right or remedy available under applicable law.

9. Further Assurances. In addition to the acts and deeds recited herein and contemplated to be performed hereunder, Grantor and Grantee agree to perform such other acts, and to execute and/or deliver such other instruments and documents, as either Grantor or Grantee, or their respective counsel, may reasonably require in order to effectuate the intents and purposes of this Agreement.

10. Successors and Assigns. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors, heirs and assigns to the extent permitted by the Purchase Agreement.

11. Binding Effect. With respect to Grantor, the covenants contained in this Agreement are not personal, but shall run with the land and shall be binding upon and inure to the benefit of the parties hereto and their respective heirs, personal representatives, transferees or successors in interest. The rights granted to Grantee hereunder are personal to Grantee.

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Exhibit K

12. Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of Washington.

13. Final and Complete Expression; Amendment. Except for the Purchase Agreement and the TJUA, this Agreement constitutes the final and complete expression of the parties with respect to the transactions contemplated herein. This Agreement may not be modified, amended, altered, superseded or terminated except by an agreement in writing signed by the then owner of the Grantor Property and Grantee. In the event of a discrepancy between this Agreement and the TJUA, the TJUA shall control.

14. Counterparts. This Agreement may be executed and delivered in more than one counterpart, each of which shall be deemed an original, and all of which together shall constitute one and the same instrument.

Remainder of page intentionally left blank; separate signature page attached.

Exhibit K

IN WITNESS WHEREOF, this Agreement is executed by the parties hereto, intending to be legally bound, effective as of the date first written above.

GRANTEE:

KING COUNTY, a home-rule charter county and political subdivision of the State of Washington

By: _____
Name: _____
Its: _____

Approved as to form:

By: _____

GRANTOR:

WASHINGTON STATE CONVENTION
CENTER PUBLIC FACILITIES DISTRICT,
a King County public facilities district

By: _____
Name: Frank Finneran
Its: Chairman of the Board of Directors

Approved as to form:

By: _____
Matthew R. Hendricks, General Counsel

Exhibit K

STATE OF WASHINGTON

COUNTY OF KING

ss.

I certify that I know or have satisfactory evidence that _____ is the person who appeared before me, and said person acknowledged that said person signed this instrument, on oath stated that said person was authorized to execute the instrument and acknowledged it as the _____ of _____, to be the free and voluntary act of such entity for the uses and purposes mentioned in the instrument.

Dated this ____ day of _____, 2018.

(Signature of Notary)

(Legibly Print or Stamp Name of Notary)

Notary public in and for the state of Washington,
residing at _____

My appointment expires _____

Exhibit K

STATE OF WASHINGTON

COUNTY OF KING

ss.

I certify that I know or have satisfactory evidence that _____ is the person who appeared before me, and said person acknowledged that said person signed this instrument, on oath stated that said person was authorized to execute the instrument and acknowledged it as the _____ of _____, to be the free and voluntary act of such entity for the uses and purposes mentioned in the instrument.

Dated this ____ day of _____, 2018.

(Signature of Notary)

(Legibly Print or Stamp Name of Notary)

Notary public in and for the state of Washington,
residing at _____

My appointment expires _____

Exhibit K

EXHIBIT A

Legal Description of Grantor Property

PARCEL A:

LOTS 1 THROUGH 12, INCLUSIVE, BLOCK 32 AND LOTS 4 THROUGH 6, INCLUSIVE, BLOCK 44, 2ND ADDITION TO THE TOWN OF SEATTLE, AS LAID OFF BY THE HEIRS OF SARAH A. BELL (DECEASED) COMMONLY KNOWN AS HEIRS OF SARAH A. BELLS 2ND ADDITION TO THE CITY OF SEATTLE, ACCORDING TO THE PLAT THEREOF RECORDED IN VOLUME 1 OF PLATS, PAGE 121, IN KING COUNTY, WASHINGTON; EXCEPT THE SOUTHERLY 7 FEET OF LOTS 1 AND 12 CONDEMNED UNDER SUPERIOR COURT CAUSE NO. 57057 FOR PINE STREET. TOGETHER WITH THE ALLEY IN BLOCK 32 AND THAT PORTION OF TERRY AVENUE VACATED BY CITY OF SEATTLE ORDINANCE 124728.

PARCEL B:

THOSE PORTIONS OF PINE STREET AND TERRY AVENUE AND OF LOTS 1, 2, 3, 10, 11, AND 12 AND THE ALLEY ADJOINING THERETO, ALL IN BLOCK 44, SECOND ADDITION TO THE TOWN (NOW CITY) OF SEATTLE AS LAID OFF BY THE HEIRS OF SARAH A. BELL (DECEASED), ACCORDING TO THE PLAT THEREOF RECORDED IN VOLUME 1 OF PLATS, PAGE 121, RECORDS OF KING COUNTY, WASHINGTON, DESCRIBED AS FOLLOWS: BEGINNING AT THE NORTHEASTERLY CORNER OF SAID LOT 10; THENCE SOUTH 30°38'18" EAST, ALONG THE EASTERLY LINE OF SAID LOTS 10, 11 AND 12, TO A POINT OPPOSITE HIGHWAY ENGINEER'S STATION 2233+60± ON THE LINE SURVEY OF SR 5, SEATTLE FREEWAY: JACKSON ST. TO OLIVE WAY AND 110 FEET NORTHWESTERLY THEREFROM; THENCE SOUTH 16°54'20" WEST, PARALLEL WITH SAID LINE SURVEY, TO A POINT ON A LINE THAT IS PARALLEL WITH AND 18 FEET NORTHWESTERLY OF, MEASURED AT RIGHT ANGLES TO, THE CENTERLINE OF PINE STREET; THENCE SOUTH 59°21'55" WEST, ALONG SAID PARALLEL LINE, A DISTANCE OF 153.07 FEET TO THE CENTERLINE OF TERRY AVENUE; THENCE SOUTH 59°21'30" WEST, ALONG SAID PARALLEL LINE, A DISTANCE OF 33 FEET TO THE SOUTHEASTERLY PROLONGATION OF THE WESTERLY MARGIN OF TERRY AVENUE; THENCE NORTH 30°37'28" WEST, ALONG SAID WESTERLY MARGIN, A DISTANCE OF 194.93 FEET; THENCE NORTH 59°22'07" EAST, A DISTANCE OF 66 FEET TO THE NORTHWESTERLY CORNER OF SAID LOT 3; THENCE NORTH 59°22'21" EAST, ALONG THE NORTHERLY LINE OF SAID LOTS 3 AND 10, A DISTANCE OF 256.09 FEET TO THE POINT OF BEGINNING. SITUATE IN THE CITY OF SEATTLE, COUNTY OF KING, STATE OF WASHINGTON.

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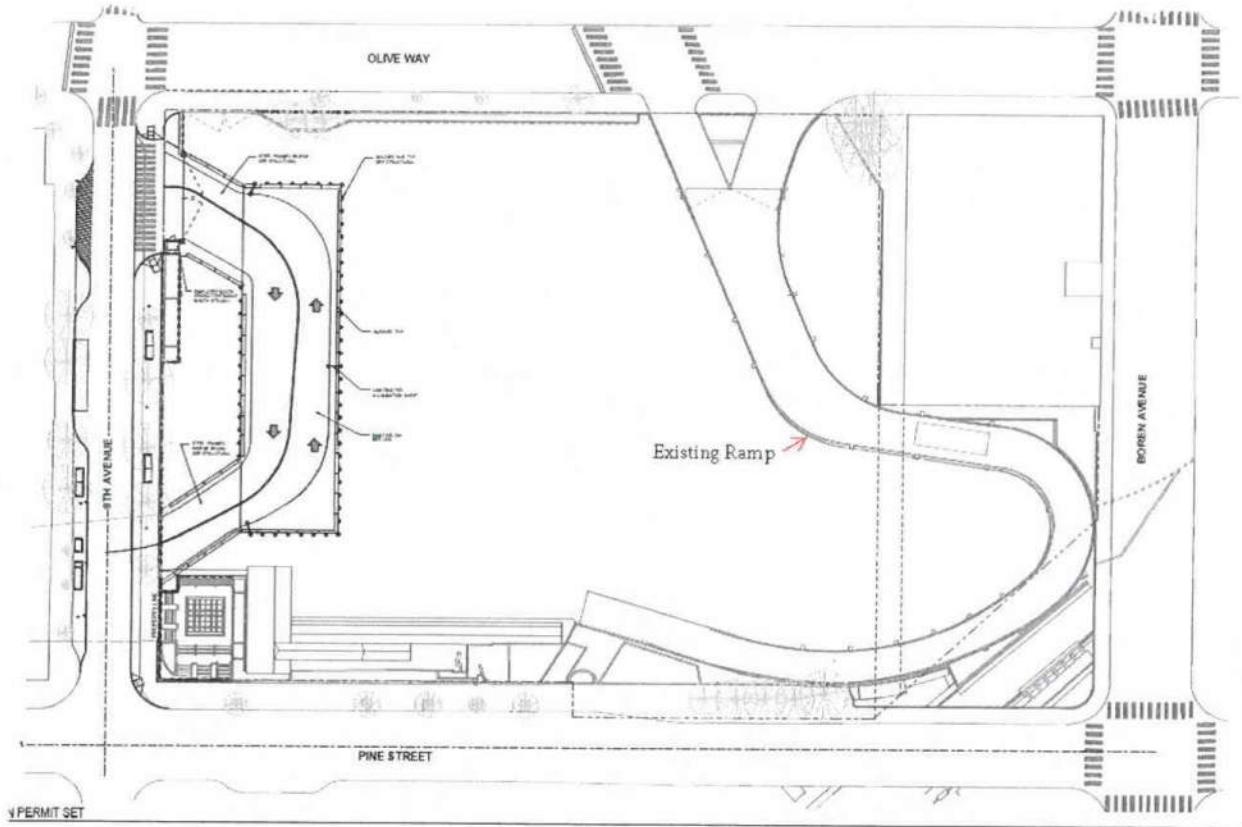
52923157.1

- 1 -

Exhibit K

EXHIBIT B

Depiction of Ramp



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EXHIBIT L

Alternative Interim Access Ramp

Exhibit L

Alternative Interim Access Ramp (Structured South Bridge) SDCI Permit #6608701

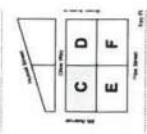
LMN
Landscape Architecture

**MAGNUSSON
KLEMMENCK
AND ASSOCIATES**
CIVIL ENGINEERS
1431 Park Avenue, Suite 100
Berkeley, CA 94710
Tel: 415.841.2200
Fax: 415.841.2201

SDCI MUP
NUMBER: 3022912
REVISIONS

King County
Metro Site Wor

Master Use Permit



Project No. 1000117
Scale: 1" = 20'
Date: 10/20/17

**SITE PLAN -
AREA C**

C15.02

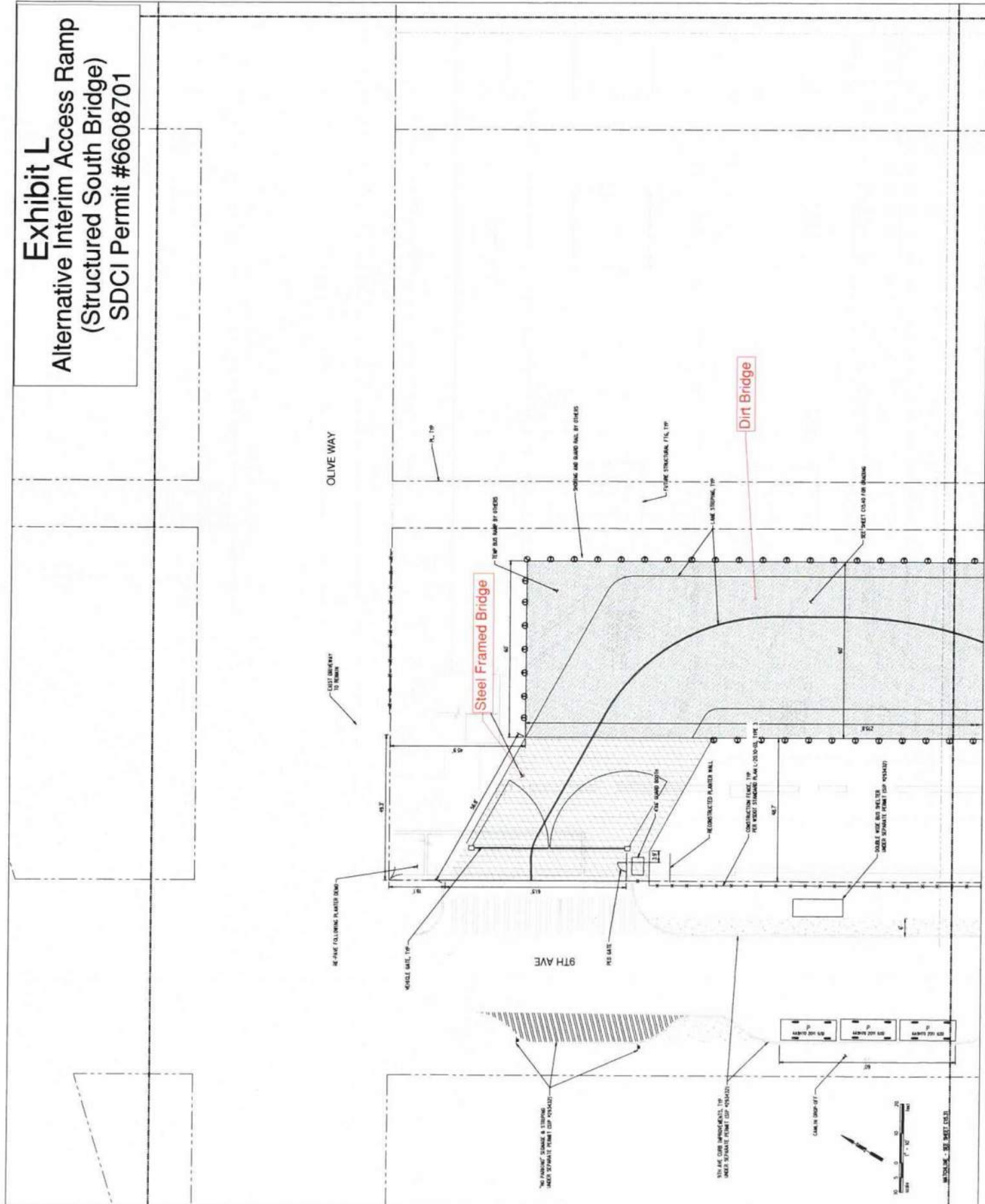


Exhibit L-1

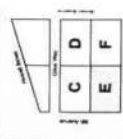


Exhibit L

Alternative Interim Access Ramp (Structured South Bridge) SDCI Permit #6608701

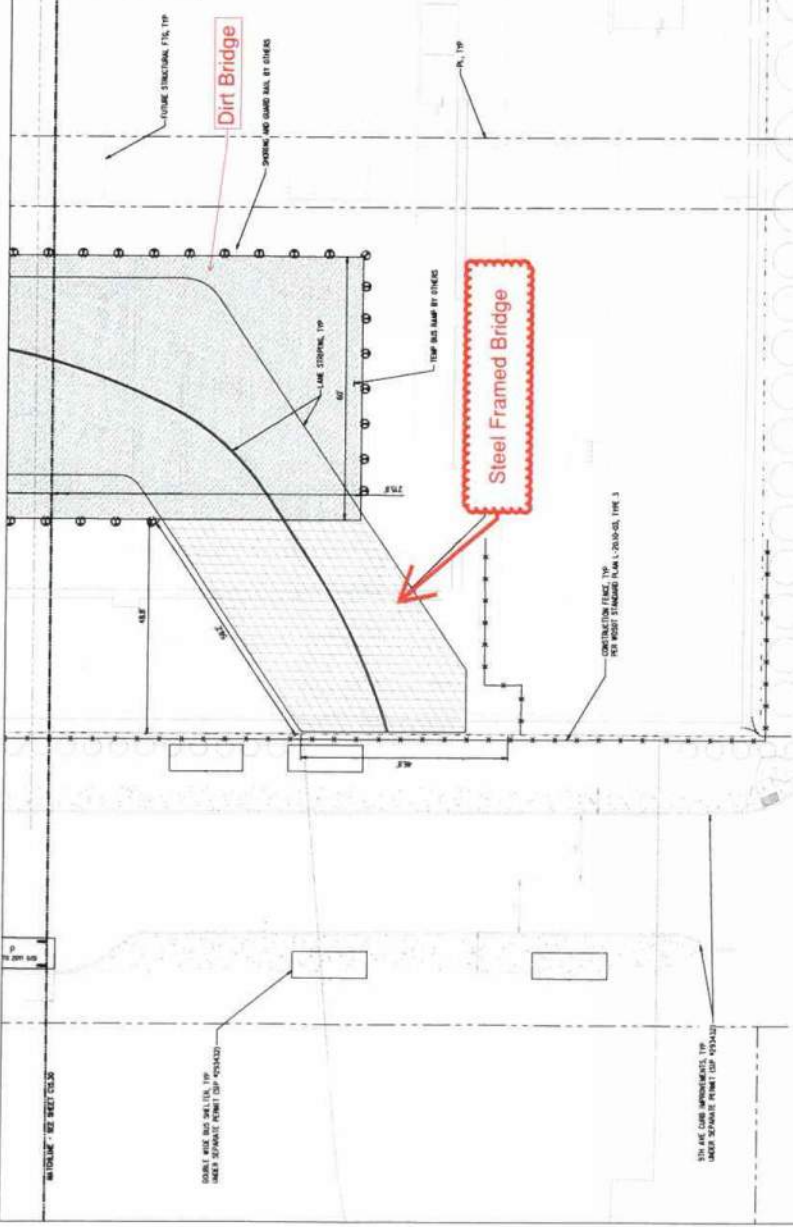


EXHIBIT M

Structured Ramp Phasing Plan; Structured Ramp Schedule; and Structured Ramp Budget

Exhibit M

Estimated Budget - Structured Ramp

	Budget 2/3/2017	Budget 12/13/2017	Variance	
Interim Access				
TTC management	24,000	24,000	0	
TTC design	258,000	0	-258,000	Removed and included in design cost below
Ramp management	115,000	129,000	14,000	PSG budget 12/11/17
Design	900,000	809,000	-91,000	
Builder's risk insurance	10,000	20,000	10,000	
Permits	50,000	50,000	0	
Legal	0	5,000	5,000	Foster Pepper cost
Construction	4,340,000	5,893,000	1,553,000	C/L estimate dated 11/28/2017 - Steel Ramp
Construction contingency (6%)	250,000	0	-250,000	\$251K included with construction costs
Owner / project contingency (approx. 3%)	150,000	170,000	20,000	
B&O Tax (0.71%)	0	43,000	43,000	Added due to state revenue ruling
WSST (10.1 %)	0	298,000	298,000	On equipment costs only
Total cost with 80/20 cost sharing	6,097,000	7,441,000	1,344,000	
KCM cost (80%)	4,877,600	5,953,000	1,075,400	KCM capped at \$4mm - see summary below
WSSC cost (20%)	1,219,400	1,488,000	268,600	

Total cost when KCM costs are capped at \$4mm	6,097,000	7,441,000	1,344,000
KCM cost	4,000,000	4,000,000	0
WSSC cost	2,097,000	3,441,000	1,344,000

Budget Progressions

Total Cost 2017-02-03	6,097,000
Total Cost 2017-03-03	6,506,000
Total Cost 2017-04-18	6,511,000
Total Cost 2017-05-11	6,511,000
Total Cost 2017-08-07	6,652,000
Total Cost 2017-10-09	6,900,000
Total Cost 2017-12-13	7,441,000

Notes:

1. WSST is calculated at 9.6% for work anticipated prior to 4/1/17 and at 10.1% for work anticipated after 4/1/17.
2. Department of Revenue: WSST not owed on labor portion of Clark/Lewis or Siemens bills. B&O tax owed on full reimbursement.
3. Some subcontracted work will be lump sum. All other work is 100% returned savings to owner.

KA: 12/13/2017

Exhibit M

Estimated Budget - Structured Ramp



A JOINT VENTURE

Washington State Convention Center Expansion Project Temporary 9th Avenue Bus Ramp Options

November 28, 2017

PARTIAL DIRT RAMP

BRIDGE RAMP

Item Description	Qty	Unit	Unit Price	Total	Item Description	Qty	Unit	Unit Price	Total
Shoring	3,281	SF	\$ 85.00	\$ 278,906	Shoring (DBM)	1	LS	\$ 2,389,000.00	\$ 2,389,000
Shoring (DBM)	1	LS	\$ 1,194,500.00	\$ 1,194,500	Backfill	12,287	CY	\$ 50.00	\$ 614,340
Backfill	11,037	CY	\$ 50.00	\$ 551,840	Paving	20,693	SF	\$ 20.00	\$ 413,860
Paving	18,893	SF	\$ 20.00	\$ 377,860	Misc. demolition	1	LS	\$ 25,000.00	\$ 25,000
Misc. demolition	1	LS	\$ 25,000.00	\$ 25,000	Curb cut/street patch	60	LF	\$ 250.00	\$ 15,000
Curb cut/street patch	60	LF	\$ 250.00	\$ 15,000	Curb	913	LF	\$ 45.00	\$ 41,085
Curb	853	LF	\$ 45.00	\$ 38,385	Railings	913	LF	\$ 425.00	\$ 388,025
Railings	853	LF	\$ 450.00	\$ 383,850	Bridge Structure	-	SF	\$ -	In DBM
Bridge Structure	-	SF	\$ 100.00	In DBM	Removal	20,693	SF	\$ 15.00	\$ 310,395
Removal	18,893	SF	\$ 15.00	\$ 283,395	Fencing/Barricade	650	LF	\$ 150.00	\$ 97,500
Fencing/Barricade	650	LF	\$ 150.00	\$ 97,500	Additional Mobilization	1	LS	\$ 100,000.00	\$ 100,000
Additional Mobilization	1	LS	\$ 100,000.00	\$ 100,000	Guard Shed	1	LS	\$ 20,000.00	\$ 20,000
Guard Shed	1	LS	\$ 20,000.00	\$ 20,000	Lighting	1	LS	\$ 100,000.00	\$ 100,000
Lighting	1	LS	\$ 100,000.00	\$ 100,000	General Conditions				\$ 167,484
General Conditions				\$ 167,484	Negotiated Site Services				\$ 309,300
Negotiated Site Services				\$ 309,300					
				<u>\$ 3,943,021</u>					<u>\$ 4,990,989</u>
				<u>\$ 4,194,585</u>					<u>\$ 318,425</u>
O&P, Insurance, Bonds, etc.:				\$ 251,565	O&P, Insurance, Bonds, etc.:				\$ 5,309,414
				\$ 209,729	Escalation:				\$ 265,471
Escalation:				\$ 251,675	Contingency:				\$ 318,565
Contingency:				<u>\$ 4,655,990</u>					<u>\$ 5,893,450</u>

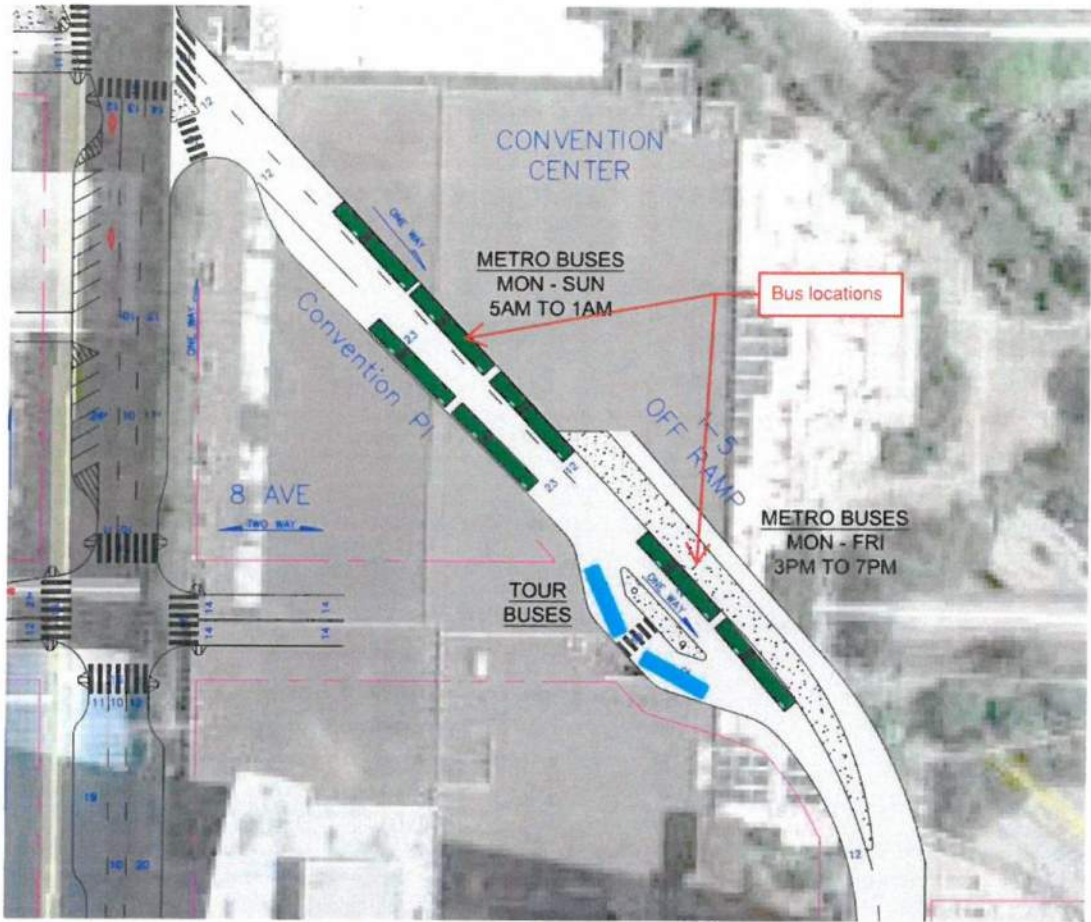
O&P, Insurance, Bonds, etc.: \$ 4,990,989
Escalation: \$ 265,471
Contingency: \$ 318,565
\$ 5,893,450

Rounded: \$5,893,000

EXHIBIT N

Approved Locations

Exhibit N
Approved Locations



Bus layover on Convention Place - 7 buses



Bus layover on Pine St. - 2 buses

*Reference SIP#293432
**Not to scale

EXHIBIT O

Construction Agreement

General Contractor/Construction Manager

(GC/CM) Agreement

for

Washington State Convention Center

Addition Project (“Project”)

Exhibit O
Construction Agreement

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EXHIBITS

- Exhibit A – Cost Allocation Matrix
- Exhibit B – Construction Cost Summary¹
- Exhibit C – Listing of Plans and Specifications²
- Exhibit D – Budget Qualifications and Exclusions³
- Exhibit E – Schedule⁴
- Exhibit F – Project Labor Agreement
- Exhibit G – Reservation of Rights to Implement Contractor Insurance Program

¹ The Construction Cost Summary for limited scopes of Work authorized by Owner prior to Owner and GC/CM executing a change order incorporating the MACC/Total Contract Cost for the entire Addition Project will be set forth, as applicable, in the change order(s) authorizing such limited scopes of Work. Otherwise, the Construction Cost Summary for the entire Addition Project shall be incorporated herein, if and when Owner and GC/CM agree upon and execute a change order incorporating the MACC/Total Contract Cost for the entire Addition Project.

² A Listing of Plans and Specifications for limited scopes of Work authorized by Owner prior to Owner and GC/CM executing a change order incorporating the MACC/Total Contract Cost for the entire Addition Project will be set forth, as applicable, in the change order(s) authorizing such limited scopes of Work. Otherwise, the Listing of Plans and Specifications for the entire Addition Project shall be incorporated herein, if and when Owner and GC/CM agree upon and execute a change order incorporating the MACC/Total Contract Cost for the entire Addition Project.

³ Budget Qualifications and Exclusions for limited scopes of Work authorized by Owner prior to Owner and GC/CM executing a change order incorporating the MACC/Total Contract Cost for the entire Addition Project will be set forth, as applicable, in the change order(s) authorizing such limited scopes of Work. Otherwise, Budget Qualifications and Exclusions for the entire Addition Project shall be incorporated herein, if and when Owner and GC/CM agree upon and execute a change order incorporating the MACC/Total Contract Cost for the entire Addition Project.

⁴ The Schedule, if any, for limited scopes of Work authorized by Owner prior to Owner and GC/CM executing a change order incorporating the MACC/Total Contract Cost for the entire Addition Project will be set forth, as applicable, in the change order(s) authorizing such limited scopes of Work. Otherwise, the Schedule for the entire Addition Project shall be incorporated herein, if and when Owner and GC/CM agree upon and execute a change order incorporating the MACC/Total Contract Cost for the entire Addition Project.

Exhibit O
Construction Agreement

General Contractor/Construction Manager (GC/CM) Agreement

THIS GENERAL CONTRACTOR/CONSTRUCTION MANAGER (GC/CM) AGREEMENT (this "Agreement") is made and entered into by and between Washington State Convention Center ("Owner"), a King County public facilities district and Clark-Lewis JV ("GC/CM"), a Joint Venture comprised of Clark Construction Group, LLC and Lease Crutcher Lewis LLC, hereinafter referred to as "Parties". This Agreement shall be effective on the last date set forth on the signature page. This Agreement shall be the agreed basis of performing, and compensating for, all work identified herein.

In consideration of the mutual covenants and agreements of the Parties herein contained, GC/CM agrees to furnish all material, labor, tools, equipment, apparatus, facilities, etc., necessary to perform and complete in an acceptable manner all general contractor and all construction management services and the Work called for in the Contract Documents for a not to exceed Total Contract Cost of:

Total Contract Cost Breakdown⁵⁶

Maximum Allowable Construction Cost (MACC)	\$ _____
Fixed Maximum Reimbursable Amount for Specified General Conditions	\$ _____
Percent Fee	\$ _____
Total Contract Cost (TCC):	\$ _____
Preconstruction Services Amount	\$ _____
TCC plus Preconstruction Services:	\$ _____

This Agreement is entered into pursuant to the provisions of RCW 39.10.210 and 39.10.340 through 39.10.410. GC/CM agrees, as required by RCW 39.10.350, if the Work cannot be completed for the MACC, excepting increases due to Owner-directed changes, design errors or omissions, or unforeseen site conditions, any and all additional costs shall be the sole responsibility of the GC/CM, and GC/CM hereby assumes liability for such costs without reimbursement by Owner. In entering into this Agreement, Owner and GC/CM recognize that they may not be able to negotiate a mutually agreeable, satisfactory MACC and Total Contract Cost for the entire Addition Project. Accordingly, Owner and GC/CM are not relying on the assumption that a change order incorporating the MACC/Total Contract Cost for the entire Addition Project will subsequently be signed, nor that negotiations toward an agreed MACC for the entire Addition Project will proceed to any particular stage including but not limited to the 90% construction documents stage. If at any time Owner determines that the parties will be unable to negotiate a satisfactory MACC for the entire Addition Project, Owner may terminate this Agreement for Owner's convenience pursuant to Section 9.02 of the General Conditions for the GC/CM Agreement (without limitation of Owner's rights to terminate for convenience at any time in its sole discretion), and GC/CM will have no right to continue in the MACC negotiation process for the entire Addition Project.

⁵ The Total Contract Cost for limited scopes of Work authorized by Owner prior to Owner and GC/CM executing a change order incorporating the MACC/Total Contract Cost for the entire Addition Project will be set forth, as applicable, in the change order(s) authorizing such limited scopes of Work. Otherwise, the Total Contract Cost for the entire Addition Project shall be incorporated herein, if and when Owner and GC/CM agree upon and execute a change order incorporating the MACC/Total Contract Cost for the entire Addition Project.

⁶ The total of the GC/CM's Percent Fee, which is 4.26% of the MACC, includes GC/CM's non-OCIP insurance costs and GC/CM's performance and payment bond costs.

ARTICLE 1
DEFINITIONS

In addition to the definitions set forth in the General Conditions, the following definitions shall apply to this Agreement.

- 1.1 Architect. The Project Architect (referred to herein as "A/E") is LMN Architects.
- 1.2 Bid Package Estimate. The term "Bid Package Estimate" (BPE) is defined in section 6.6.2.1.
- 1.3 Construction Documents. The term "Construction Documents" means the Drawings and Specifications in the form existing at the applicable time as determined by the paragraph in which the term is used.
- 1.4 Construction Work. The term "Construction Work" means all work performed during the construction phase of the Project by GC/CM, including but not limited to that performed by subcontractors or sub-subcontractors.
- 1.5 Contract Documents. The "Contract Documents" consist of the following:
 - 1.5.1 This General Contractor/Construction Manager Agreement;
 - 1.5.2 Any documents referenced herein and attached to this Agreement, including but not limited to Exhibit A, "*Cost Allocation Matrix*". In the event of a conflict or inconsistency, the provisions of this Agreement, or Specifications Division 01 shall take precedence over Exhibit A;
 - 1.5.3 The following documents are incorporated herein by reference, as if set forth herein in full: (a) General Conditions for the GC/CM Agreement; (b) any modifications and Supplemental Conditions to the General Conditions; (c) Drawings and Specifications with all Addenda and modifications thereof; (d) change orders issued after execution of this Agreement; (e) the Request for Qualifications ("RFQ") document for selection of the GC/CM and the GC/CM's Response to the RFQ; (f) the Request For Final Proposals for GC/CM Services ("RFFP") issued by Owner and its addenda and the GC/CM's written response to the RFFP including GC/CM's Percent Fee bid and Fixed Amount for Specified General Conditions Work; and (g) all Exhibits to this Agreement.
- 1.6 Contractor. See the term "General Contractor/Construction Manager".
- 1.7 CPARB. The term CPARB means the Capital Projects Advisory Review Board as set forth in section 3.1.4
- 1.8 Development Manager. The term "Development Manager" means the person or firm designated by Owner to serve as Owner's representative, and to whom or which GC/CM shall report for information regarding construction and administration of the Project. Pine Street Group L.L.C. is the Development Manager for the Project, and its designated representatives will be identified prior to the start of construction.
- 1.9 General Conditions. "General Conditions" means those certain General Conditions for GC/CM projects executed by the Parties as may now or hereafter be amended or modified by them in writing.
- 1.10 General Contractor/Construction Manager. "General Contractor/Construction Manager" (GC/CM) means a firm with which Owner has negotiated an Agreement for Preconstruction Services applicable to the design phase. Upon execution of this Agreement, GC/CM will continue to provide services during the design phase and act as general contractor and construction manager during the construction phase.
- 1.11 Maximum Allowable Construction Cost. The "Maximum Allowable Construction Cost" (MACC) means the maximum cost of the Work to construct the Project including a percentage for risk contingency, Negotiated Support Services, and approved change orders.

Exhibit O
Construction Agreement

- 1.12 Negotiated Support Services. “Negotiated Support Services” means items GC/CM would normally manage or perform on a construction project including, but not limited to staffing, surveying, hoisting, safety enforcement, provision of toilet facilities, temporary heat, cleanup, and trash removal. The Negotiated Support Services shall be provided by GC/CM and the costs thereof (at cost or at stipulated rates) shall be included in the MACC.
- 1.13 Owner Furnished Contractor Installed. The term “Owner Furnished Contractor Installed” (OFCI) is defined in section 6.6.10.
- 1.14 Owner. “Owner” refers to the Washington State Convention Center, a public corporation.
- 1.15 Parties. The term “Parties” is defined in the first sentence of this Agreement.
- 1.16 Percent Fee. “Percent Fee” means the percentage amount of the MACC to be earned by the GC/CM as overhead and profit and as further defined in section 6.5 of this GC/CM Agreement.
- 1.17 Proposal. The GC/CM’s submitted response to the RFQ for selection of the GC/CM and the GC/CM’s written response to the RFP including GC/CM’s Percent Fee bid and Fixed Amount for Specified General Conditions Work.
- 1.18 Punchlist Work. The term “Punchlist Work” means minor items of repair or completion that do not interfere with Owner’s occupancy or utilization of the Project for its intended purposes.
- 1.19 Total Contract Cost. The term “Total Contract Cost” (TCC) means the fixed amount for the detailed Specified General Conditions work, the negotiated Maximum Allowable Construction Cost, and the Percent Fee on the negotiated Maximum Allowable Construction Cost.

ARTICLE 2
THE CONTRACT DOCUMENTS

- 2.1 Contract Documents. The Contract Documents, as defined in Article 1 of this Agreement, form the complete agreement between the Parties, and are as fully a part of the Agreement as if attached to this Agreement or repeated herein. The Contract Documents represent the entire and integrated agreement between the Parties and supersede prior negotiations, representation or agreements, either written or oral, including, but not limited to, the Agreement for Preconstruction Services (the work and services of the contract for Preconstruction Services being deemed to have been performed consistent with, and subject to the rights and obligations set forth in this Agreement after execution of a change order incorporating the MACC/Total Contract Cost for the entire Addition Project). In the event of any inconsistencies between the component parts of the Contract Documents, the order of precedence of the documents shall be as stated in the General Conditions.
- 2.2 Miscellaneous. References in this Agreement to sections are references to sections in this Agreement unless otherwise specified.

ARTICLE 3
WORK OF THIS CONTRACT

- 3.1 General. GC/CM will work collaboratively and proactively with Owner and A/E to proceed with the planning, design, and development of the Work in a manner that supports Owner’s efforts to keep costs within Owner’s budget. Contact with Owner and A/E shall be made through Owner’s Development Manager. GC/CM shall make all submittals, correspondence, inquiries and requests through the Owner’s Development Manager unless otherwise directed by Owner. GC/CM shall provide construction management (CM) services throughout the Project, from the preconstruction period through construction and shall closely coordinate such work with A/E and Owner. GC/CM shall provide CM services, including but not limited to: (a) assistance in identifying safe work practices and requirements for construction;

Exhibit O
Construction Agreement

(b) assessing and recommending site logistics requirements; (c) recommending phasing, sequencing of work and construction scheduling; (d) providing cost-estimating including Negotiated Support Services budgeting; (e) determining and reconciling constructability issues and performing constructability analysis of the design documents prior to subcontract bidding; (f) assessing alternative construction options for cost savings; (g) identifying products for cost savings and engineering systems for life cycle cost considerations and recommending all work necessary to support their implementation; (h) participating in Owner's Design and Construction Documents phases coordination reviews; and (i) collaborating with the Project team to determine which scopes of Work are best suited for performance by design-build subcontractors (Owner preliminarily anticipates that the following scopes may be best suited for performance by design-build subcontractors --Fire alarm, Fire protection, Security, Shoring, Curtain Wall, Exit Stairs, ACT ceilings, and BAS/Building Controls) and with GC/CM being responsible for the costs associated with subcontracting process for and the performance of design-build subcontractors. In addition, the GC/CM shall work with local labor and subcontracting markets to generate viable pricing alternatives, assist in defining, implementing and supporting Owner's outreach participation goal of 8% of the MACC for the entire Addition Project, and GC/CM has agreed to utilize good faith, diligent, and commercially reasonable efforts throughout the Project to achieve this goal -- Outreach Plan (which if finalized at the time of execution of this Agreement shall be attached as Exhibit ___), and assist in the refining, negotiating and abiding by a potential project labor agreement (which if finalized at the time of execution of this Agreement is attached as Exhibit F to this GC/CM Agreement). GC/CM shall provide full general contracting services for construction of the Project in accordance with the requirements of the Contract Documents and RCW 39.10.210 and 39.10.340 through 39.10.410, except to the extent work is specifically indicated in the Contract Documents to be the responsibility of others. Notwithstanding anything else in the Contract Documents to the contrary, GC/CM shall be solely responsible for the supervision, performance and coordination of all of the Work and shall cause all such Work to be performed in a good and workmanlike manner.

- 3.1.1 Phases. The development of the Project may be comprised of various phases. Early utility relocation, selective demolition, environmental remediation, and transit-related work may be part of early phasing.
- 3.1.2 Construction Cost Estimates. GC/CM shall prepare construction cost estimates in a format approved by Owner at completion of every Design Phase and at other intervals as requested by Owner, unless otherwise approved by Owner. Preconstruction will be synchronized to allow construction cost estimating and coordination reviews to occur simultaneously.
- 3.1.3 LEED. The LEED goal for this Project will be determined by Owner. GC/CM shall work collaboratively and proactively throughout the Project, including construction, to achieve this goal.
- 3.1.4 CPARB Reporting. GC/CM shall provide Owner any Project information required to be submitted by GC/CM in accordance with the provisions of chapter 39.10 RCW and the requirements of the Capital Projects Advisory Review Board as defined in RCW 39.10.210(2).
- 3.1.5 Property As-builts. Owner shall make available to GC/CM, as requested, any available record drawings of the existing sites and facilities. Owner cannot guarantee the accuracy of these drawings, and GC/CM shall verify as required elsewhere in this Agreement those aspects of the existing site that are pertinent to the Project and which are necessary for GC/CM to perform its obligations under this Agreement.
- 3.1.6 Taxes. GC/CM shall pay sales, business & occupation, consumer use and similar taxes for the Work provided by GC/CM that are legally enacted when the Work is performed. GC/CM shall indemnify, defend and hold harmless Owner from any liability for all such taxes and those taxes relating to the employees of GC/CM, any Subcontractor or any Sub-subcontractor, including taxes and contributions required under the Federal Social Security Act and the unemployment compensation law or any similar law of any state.

Exhibit O
Construction Agreement

3.1.7 Key Employees. GC/CM agrees that its Project team shall be of the highest capabilities, and GC/CM shall endeavor to staff the Project with its most capable employees and have them located in the Seattle area full-time for the duration of the Project. GC/CM acknowledges and agrees that the Key Employees provide a material benefit to Owner and that the loss of such Key Employees would materially affect the benefits that Owner receives under the Agreement. As such, GC/CM shall not change the roles or responsibilities or stated Project commitment of a Key Employee for the Project without the prior written consent of the Owner. Beginning on the date hereof, if any Key Employee ceases to be committed to the Project at the stated percentage in the role on the Project for which such Key Employee has been appointed (as set forth in the chart below) for any reason (other than the death or incapacity of such Key Employee or the voluntary separation of employment made by the Key Employee), then GC/CM shall, within five (5) business days after the date such Key Employee ceases working for GC/CM in such capacity, pay to Owner liquidated damages (the parties agreeing it would be impracticable and extremely difficult to fix the actual damages sustained as a result of the failure of GC/CM to maintain Key Employees and that the liquidated damages amount set forth below is a reasonable estimate of damage to Owner and is not a penalty or punitive in nature) in the amount of One Million Dollars (\$1,000,000) per Key Employee.⁷

<u>Key Employees</u>	<u>Role/Responsibility (Title) and Commitment %</u>

3.2 Work Prior to Construction.

3.2.1 General. GC/CM shall actively participate as a member of the Project team with Owner and A/E during the Design and Construction Documents phases. GC/CM shall be responsible for providing necessary consulting expertise to the Owner to ensure that the program scope, the construction budget and the Owner's Project schedule are met. During this period, GC/CM shall provide the appropriate professional personnel that were named in the Proposal and other such personnel as necessary to perform the required services. GC/CM personnel on the Project must be approved by Owner, including but not limited to, a professional project manager or higher level person to attend all meetings described herein and provide or oversee the services the GC/CM is obligated to perform to ensure development of the most functional, constructible and cost-effective Project. GC/CM shall review drafts of the Owner's Project schedule to ensure the Owner's Project schedule is viable and make recommendations for change, including recommendations on accelerating and possible phasing options as appropriate.

3.2.2 Schematic Design Phase. Schematic Design may have commenced prior to any contract between Owner and GC/CM. In addition to the general services normally provided by a construction manager prior to construction, GC/CM shall provide the following services:

⁷ The Key Employees/Role/Responsibility/Commitment % Chart will be completed and incorporated herein, if and when Owner and GC/CM agree upon and execute a change order incorporating the MACC/Total Contract Cost for the entire Addition Project (which change order shall include a completed Key Employees/Role/Responsibility/Commitment % Chart).

Exhibit O
Construction Agreement

- 3.2.2.1 Attend Project management meetings to discuss Project status, issues and planning for design committee meetings. Attend design committee meetings.
- 3.2.2.2 Provide constructability comments and estimating services when requested by the A/E and approved by Owner to evaluate critical elements of the design as they are formulated. Propose alternative designs or materials, if appropriate.
- 3.2.2.3 Provide comments on construction feasibility and safe working conditions. Comment on site logistics requirements including, but not limited to, temporary power, haul routes, street closures, construction time periods, site access, temporary construction facilities, debris removal due to demolition, material delivery, hoisting and lay-down area.
- 3.2.2.4 Review record drawings and investigate the existing conditions including utility locations on public and private property at the Project site to ensure that the Contract Documents will reflect the actual site conditions.
- 3.2.2.5 Review assessments made by A/E and if necessary, recommend and provide, when requested by Owner, additional tests or investigations to verify existing conditions and/or capability of existing systems.
- 3.2.2.6 Prepare a preliminary construction schedule in a format and using software approved by Owner. GC/CM shall coordinate its preliminary construction schedule with Owner's Project schedule.
- 3.2.2.7 Review the Design Drawings and specifications and provide value engineering, coordination, and constructability comments. Monitor the development of the Schematic Design documents. Provide in-depth review, suggest detailed cost and schedule ideas that could better the Project, detailed quality and constructability review comments, and work collaboratively with the Project team to incorporate Owner-approved suggestions. GC/CM shall inform Owner of GC/CM's opinion as to whether A/E is complete with the documents in the phase, and the reasons therefor if not. GC/CM shall also track approved suggestions to the design phase documents and inform Owner whether suggestions have been incorporated into the documents after GC/CM's next document review. Work with Owner and A/E to develop possible phasing options to accelerate schedule and reduce costs and risk.
- 3.2.2.8 Prepare a construction cost estimate for the entire Work in the detail and format approved by Owner. Upon completion of the estimate, GC/CM, the A/E and any other estimator Owner may retain shall reconcile their estimates and present to Owner one estimate of the construction cost based upon mutually agreed assumptions including: the date of commencement of construction, duration of construction, escalation factors, design contingency and Negotiated Support Services costs. The cost estimate shall be updated to include Owner's and GC/CM's document review comments to achieve a total reconciliation of the cost estimate. In the event that the reconciled estimate is higher than Owner's TCC budget, and as directed by Owner, GC/CM shall present to Owner a list of cost-savings equal to or greater than the amount by which the estimate exceeds the budget and continue to work with A/E to define a scope that is within the budget.
- 3.2.2.9 Participate in and support Owner's marginal analysis exercises that analyze value and cost to help make informed decisions throughout the Project. Create a cost saving item tracking system which identifies each cost saving proposal, provides a cost estimate of the savings to the Project if the cost saving proposal is accepted, indicates the date by which a decision must be made to incorporate the cost saving proposal, indicates the current status of the cost saving proposal and the team member with current action, and the date the cost saving proposal was accepted or rejected. In a similar log, keep a list of

Exhibit O
Construction Agreement

scope that is suggested by the Project team that can be added to the Project with Owner's approval if there is room in the budget.

- 3.2.3 Design Development Phase. In addition to the general services normally provided by a construction manager or a general contractor prior to construction, GC/CM shall provide the following services during the Design Development phase:
- 3.2.3.1 Attend Project management meetings to discuss Project status, issues and planning for design committee meetings. Attend design committee meetings.
 - 3.2.3.2 Provide constructability comments and estimating services when requested by the A/E and approved by Owner to evaluate critical elements of the design as they are formulated.
 - 3.2.3.3 Monitor the development of the Design Development documents. Provide in-depth review, suggest detailed cost and schedule ideas that could better the Project, detailed quality and constructability comments, and work collaboratively with the Project team to incorporate Owner approved suggestions. GC/CM shall inform Owner of GC/CM's opinion as to whether A/E is complete with the documents in the phase, and if not, why. GC/CM shall also track approved suggestions to the design phase documents and inform Owner whether suggestions have been incorporated into the documents after GC/CM's next document review.
 - 3.2.3.4 Work with Owner and A/E to develop possible phasing options to accelerate schedule and reduce costs and risk.
 - 3.2.3.5 Prepare a time-scaled preliminary master construction schedule bar chart and tabular report representing planned progress of the Project in a format and using software approved by Owner. That preliminary master construction schedule shall identify work to be performed by GC/CM and other team members (i.e. Owner, A/E and consultants), GC/CM and including activities appropriate for the Project (i.e. permitting, subcontractor buyout, fabrication, work of major Subcontractors, etc.). In developing the activities for this schedule GC/CM shall consult with the Project team to ensure that the responsibility for and duration of these activities are accurate and consistent with the Owner's Project schedule. Indicate important milestones (i.e. notice to proceed, subcontract and material buyout packages, bottom of excavation, topping out, building enclosed, temporary occupancy, beneficial occupancy, etc.). The preliminary master construction schedule shall be in a form and detail approved by Owner and be updated regularly and as requested by Owner.
 - 3.2.3.6 Within the preliminary master construction schedule, identify subcontract bid packages and material procurement packages that should be advertised prior to the completion of Construction Documents. If Owner concurs that the Project will benefit and funds are available Owner may, at its option, authorize GC/CM to advertise and award subcontracts or material procurements for long lead-time items in advance of completion of Construction Documents. All provisions of this Agreement and RCW 39.10.210, and 39.10.340 through 39.10.410 otherwise applicable to subcontract bidding shall apply to any early advertising and award of subcontracts and/or material procurements.
 - 3.2.3.7 Review the Final Design Development drawings and specifications and provide general coordination assessment comments, constructability comments of the design and conduct a safe working conditions hazards analysis. Verify that accepted cost savings recommendations are implemented.
 - 3.2.3.8 Verify that the Design Development documents reflect the existing Project site conditions.

- 3.2.3.9 Prepare construction cost estimate for the entire Work in detail and format approved by Owner, based upon the Final Design Development documents. Upon completion of the estimate, GC/CM, the A/E and any other estimator Owner may retain shall reconcile their estimates and present to Owner one estimate of the construction cost based upon mutually agreed assumptions including: the date of commencement of construction, duration of construction, escalation factors, design contingency and Negotiated Support Services costs. The cost estimate shall be updated to include Owner's and GC/CM's document review comments to achieve a total reconciliation of the cost estimate. In the event that the reconciled estimate is higher than Owner's TCC budget, and as directed by Owner, GC/CM shall present to Owner a list of cost-savings equal to or greater than the amount by which the estimate exceeds the budget and continue to work with A/E to define a scope that is within the budget.
- 3.2.3.10 Update cost saving items tracking system monthly for discussion at Project management meetings.
- 3.2.3.11 Participate in and support the evaluation and documentation of the LEED scorecard and points to achieve the Project's sustainability goals, including but not limited to, providing a value-based analysis and estimating of LEED points and associated costs. The LEED goal for the Project will be determined by Owner. GC/CM shall work collaboratively and proactively throughout all phases of the Project, including construction, to achieve this goal.
- 3.2.4 Construction Documents Phase. In addition to the general services provided by a construction manager prior to construction, GC/CM shall provide the following services during the Construction Documents phase.
- 3.2.4.1 Attend Project management meetings to discuss Project status, issues and planning for design committee meetings. Attend design committee meetings.
- 3.2.4.2 Provide constructability comments and estimating services when requested by the A/E and approved by Owner to evaluate critical elements of the design as they are formulated.
- 3.2.4.3 Work with Owner and A/E to develop final phasing plans for the Work.
- 3.2.4.4 Prepare the baseline final master construction schedule for the Project consistent with the Owner's Project schedule, in detail appropriate for organized and expedited execution of the Project. Provide notes that explain changes from the last schedule. Provide regular updates to the Owner and Project team throughout the remainder of the Project.
- 3.2.4.5 Prepare procurement documents for long-lead time materials if and when authorized by Owner.
- 3.2.4.6 Manage contracts for building engineering systems, if any, per RCW 39.04.290 (if applicable).
- 3.2.4.7 Monitor the development of the Construction Documents. Identify changes to the documents and update cost saving tracking system for discussion at Project management meetings. Provide document reviews at the A/E's document production milestones. Monitor the development of the documents. Provide in-depth review, suggest detailed cost and schedule ideas that could better the Project, detailed quality and constructability review comments, and work collaboratively with the Project team to incorporate Owner-approved suggestions. GC/CM shall inform Owner of GC/CM's opinion as to whether A/E is complete with the documents in the phase, and if not, why. GC/CM shall also track approved suggestions to the design phase documents and inform Owner whether

suggestions have been incorporated into the documents after GC/CM's next document review. Work with Owner and A/E to develop possible phasing options to accelerate schedule and reduce costs and risk.

- 3.2.4.8 Complete an interdisciplinary quality assurance check of the 90% complete Construction Documents submittal or submittals, if the Construction Documents are phased, to validate the documents are complete and coordinated. Provide comments to the A/E and Owner. Verify that the comments are incorporated into the final Construction Documents.
- 3.2.4.9 Provide a constructability analysis of each subcontract bid package.
- 3.2.4.10 Verify that the Construction Documents reflect the existing Project Site conditions.
- 3.2.4.11 Prepare a construction cost estimate for the entire Work in detail and format approved by Owner, based upon the final Construction Documents submittal. Upon completion of the estimate, GC/CM and any other estimators Owner may retain shall reconcile their estimates and present to Owner one estimate of the construction cost based upon mutually agreed assumptions including: the date of commencement of construction, duration of construction, escalation factors, design contingency and Negotiated Support Services costs. The cost estimate shall be updated to include Owner's and GC/CM's document review comments to achieve a total reconciliation for the phase. If the reconciled estimate exceeds the MACC agreed to between the Parties, because of Owner directed changes or unforeseen site conditions, GC/CM shall take whatever actions are necessary in conjunction with the A/E and Owner to reduce the cost of the Work to within the MACC. If the estimate exceeds the agreed MACC because of increases other than Owner directed changes, design errors or omissions, or unforeseen conditions, any and all additional costs shall be the sole responsibility of GC/CM subject to the provisions of the General Conditions.
- 3.2.4.12 Assist the A/E to research and document products and vendors compliant with the LEED requirements of the Project.
- 3.2.4.13 Prior to starting construction, the GC/CM will perform a quality assurance review of the design specification and documents which it will submit to the Development Manager and A/E for incorporation into the design documents. The GC/CM is to agree that drawings are complete and ready for efficient and effective execution of construction or give Owner notice of deficiencies in time for A/E to correct without delaying work.

3.3 Work During Construction.

- 3.3.1 General. During construction GC/CM shall provide all services required of a general contractor and construction manager to execute the Work. Some details of GC/CM's work are provided below but this list shall in no way limit GC/CM's overall duty to provide GC/CM services.
- 3.3.2 Meetings and Tours. GC/CM shall attend construction progress meetings and provide all schedules, logs and other information of construction activities to support the meeting. GC/CM will record and distribute meetings minutes for same. GC/CM shall conduct separate weekly safety, and subcontractor meeting(s) and maintain minutes for same until Owner has determined what documents are to be provided with GC/CM's close-out package. Upon advance notice, GC/CM shall assist Owner in scheduling site tours for Owner and other officials as required. GC/CM shall (a) record the progress of the Work; (b) keep a daily log of information relevant to the activities and progress of the Work; (c) submit to Owner a brief progress report and copies of the daily logs monthly; and (d) submit to Owner such reports and notifications as Owner may reasonably request from time to time.

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- 3.3.3 Superintendence/Coordination. GC/CM shall be responsible for superintendence, providing ongoing coordination between crafts, job site safety, housekeeping, quality control, settling disputes between Subcontractors, negotiating any Change Orders with Subcontractors (Owner expects GC/CM to negotiate with Subcontractors but reserves the right to reject any Subcontractor proposal), negotiating Change Orders with Owner, reviewing, coordinating and forwarding submittals, substitution requests, and Requests for Information (“RFIs”) to Owner, as requested by Owner and for responding to all correspondence related to the effort required for any procurement activities that arise from a Subcontractor’s inability or unwillingness to perform, including but not limited to GC/CM ensuring that Owner is named as a beneficiary on all bonds provided by Subcontractors, and to GC/CM providing all assistance to Owner and taking all appropriate actions necessary and/or reasonably directed by Owner to preserve and exercise Owner’s bond rights.
- 3.3.4 Planning and Layout. GC/CM shall be responsible for the planning and layout of the Work, and for the coordination of layout work provided by separate trades for their own work, to ensure that no conflict exists with the work of other trades.
- 3.3.5 Staffing. This Project shall have the highest priority of GC/CM resources. GC/CM shall staff the Project with adequate personnel that have the appropriate capacity, attitude and expertise to effectively plan and construct the Project in an expeditious manner with tight budget control. Prior to the start of the Work, GC/CM shall submit for Owner’s approval a Project staffing plan providing balanced and complementary expertise to meet the goals of the Project. Owner shall have the right to direct removal of any project manager, engineers, superintendents or other staff assigned to the Work by GC/CM. Any changes in the personnel assigned including additional assignments by GC/CM to direct supervision or management of the Work shall be subject to Owner’s prior approval. GC/CM shall provide sufficient staff of project managers, field engineers, superintendents, health and safety officers, GC/CM’s quality control representatives, testing engineers, scheduling engineers, cost engineers, clerical and accounting personnel, etc. to ensure that:
- 3.3.5.1 Change Order Proposals are submitted to Owner no later than seven (7) calendar days after receipt by GC/CM of Subcontractor’s proposal. Submit proposals faster if required to maintain schedule.
- 3.3.5.2 RFIs are reviewed and forwarded to the A/E and Owner as requested or required as expeditiously as possible to not cause delay to the Project.
- 3.3.5.3 Submittals are reviewed for completeness and forwarded to A/E and Owner as requested or required no later than seven (7) calendar days after receipt. Forward submittals faster if required to maintain schedule.
- 3.3.5.4 Replies to correspondence are provided no later than seven (7) calendar days after receipt, and faster if required to maintain schedule.
- 3.3.5.5 Until closeout is complete, provide adequate qualified staff that are authorized to act on behalf of GC/CM to coordinate and ensure that any outstanding work items (including all punchlist work), testing and commissioning are completed.
- 3.3.5.6 All requirements of the Contract Documents are satisfied.
- 3.3.6 Inspections. Special inspection required by the appropriate building officials and regulatory agencies will be provided by Owner. GC/CM shall be responsible to ensure that Owner’s inspectors are given notice and are afforded timely and appropriate access to the Work to make their inspections. Additional provisions regarding inspections are set forth in the General Conditions.

- 3.3.7 Regulatory Changes. GC/CM shall keep A/E and Owner informed of regulatory changes and updates to the law affecting the Project.
- 3.3.8 Certificate of Occupancy. GC/CM shall obtain a Certificate of Occupancy, including a Temporary Certificate of Occupancy (if allowed and beneficial to Owner), and the required operating permits necessary for Owner to take beneficial occupancy of the Project or any partially completed portion of the Project.
- 3.3.9 Substantial Completion. Substantial Completion is defined in and shall be achieved by satisfying the criteria stated in the General Conditions.
- 3.3.10 LEED Certification. GC/CM shall manage environmental issues pertaining to, and implement and document the Project's LEED requirements, including but not limited to: (a) outline Subcontractor requirements for LEED in the subcontract bid documents; (b) monitor the submittal process to ensure LEED compliance; (c) train Subcontractors in LEED requirements; (d) review design changes during construction for LEED impacts and inform Owner of impacts; (e) ensure installed products are LEED compliant; and (f) assemble and maintain records to document LEED goals compliance.
- 3.4 Work During Commissioning.
- 3.4.1 Owner shall hire an independent commissioning authority. GC/CM shall provide necessary and appropriate staff to support the commissioning effort.

ARTICLE 4
RELATIONSHIP OF THE PARTIES

- 4.1 General.
- 4.1.1 GC/CM accepts the relationship of trust and confidence established by this Agreement and covenants with Owner to cooperate with Owner and A/E through every phase of the Work and utilize GC/CM's best skill, efforts and judgment in furthering the interests of Owner; to furnish efficient business administration and supervision; to make best efforts to furnish at all times an adequate supply of workers and materials; to perform the Work in the best way and most expeditious and economical manner consistent with the interests of Owner; and to comply with the terms of the Contract Documents. GC/CM agrees that it has no right or authority to act as a representative or agent of Owner, and shall work with and through the Development Manager. GC/CM recognizes that Owner has a separate agreement with A/E to design the Project and to provide certain construction administration services necessary to ensure that the construction is in accordance with the Contract Documents. GC/CM further recognizes that in order for the Project to be completed on time and within budget, GC/CM, A/E, and Owner will have to closely cooperate on a regular basis to revise plans, drawings, specifications, materials, methods, estimates, schedules, and budgets as necessary to meet the Owner's needs and execute the Project within the Owner's budget.
- 4.1.2 Owner agrees to exercise best efforts to promptly furnish information required to be furnished by Owner to GC/CM under this Agreement and to make payments to GC/CM in accordance with the requirements of this Agreement.
- 4.2 Partnering. Partnering emphasizes a cooperative approach to problem solving involving all key parties to the Project: Owner, A/E, GC/CM and principal Subcontractors. Owner and GC/CM agree to utilize an informal partnering concept for the Project, so that through discussions, mutual objectives can be understood and established, lines of communication defined and problem resolution levels established and maintained. The parties agree to commit reasonable resources to this effort.

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ARTICLE 5
DATE OF COMMENCEMENT,
TIME OF COMPLETION, LIQUIDATED DAMAGES

- 5.1 Subject to Funding. If Owner determines, in its absolute discretion, that sufficient funds are not available, then Owner shall have the right to immediately terminate this Agreement for its convenience at any time. In the event it does so, it will compensate GC/CM for the value of the Work it has performed, if any, and the reasonable costs for securing and demobilizing from the Project. However, GC/CM shall not be entitled to any compensation for damages, lost profits, or payments of any other kind.
- 5.2 Time is of the Essence. It is understood that time is of the essence in performing the Work, and GC/CM shall provide the necessary equipment, personnel and services to commence on the date this Agreement is executed and to substantially complete the Work within the time periods set forth herein. GC/CM shall continually endeavor to improve the critical path for the Project to achieve completion of the Work in the most expeditious and efficient manner.
- 5.3 Date of Commencement. The date of commencement of all other Work including the Construction Work shall be on the later to occur of (a) mutual execution of this Agreement and (b) delivery by Owner of a Notice to Proceed letter to GC/CM specifying the Work that is being authorized. Any Work (other than the Work performed under the Preconstruction Services Agreement) performed prior to the occurrence of the last of the events described in clauses (a) and (b) shall be at GC/CM's sole risk and expense.
- 5.4 Substantial Completion. Owner anticipates issuing a Notice to Proceed regarding the Construction Work. This Notice to Proceed will allow GC/CM to begin site mobilization and construction. All work delineated in the Contract Documents shall be substantially complete within _____ () calendar days after the *date* specified in the Notice to Proceed to begin the Work.⁸
- 5.5 Damages for Delay. In the event GC/CM fails to achieve Substantial Completion of the Work within the time provided in the preceding section 5.4, as adjusted as permitted under the Contract Documents, the parties agree it would be impracticable and extremely difficult to fix the actual damages sustained as a result of the failure of GC/CM to complete the Project in a timely manner. As a result, the parties agree that Owner shall have the right to recover and GC/CM agrees to pay Owner liquidated damages in the amounts set forth below, which amounts the parties agree are a reasonable estimate of the delay-related financial damage to Owner, and are not a penalty or punitive in nature:
1. \$0/day for each of the first fourteen (14) calendar days of delay.
 2. \$10,000/day for each day of delay for the next fourteen (14) calendar days.
 3. \$20,000/day for each day of delay for the next fourteen (14) calendar days.

⁸ The Owner may issue limited Notice(s) to Proceed with limited scopes of Work as set forth in and authorized by Owner prior to Owner and GC/CM executing a change order incorporating the MACC/Total Contract Cost for the entire Addition Project and the substantial completion date therefor, in the change order(s) authorizing such limited scopes of Work. Prior to the substantial completion date for entire Addition Project being so established, GC/CM shall promptly and continuously proceed to carry out the limited scopes of Work as set forth in and authorized by Owner in change order(s) authorizing such limited scopes of Work. If and when the substantial completion date for the entire Addition Project is so established, it shall be incorporated herein by Owner and GC/CM agreeing upon and executing a change order incorporating the MACC/Total Contract Cost for the entire Addition Project and the substantial completion date therefor, and said substantial completion date for the entire Addition Project shall also apply to any and all limited scopes of Work as set forth in and authorized by Owner in the change order(s) authorizing such limited scopes of Work.

4. For so long as delay continues after the first forty-two (42) calendar days, the daily charge for each day of delay shall be \$30,000/day; provided that in no case shall the total amount of liquidated damages for delay exceed the total amount of the Percent Fee paid to GC/CM.

Such liquidated damages shall be Owner's sole remedy for recovery of all direct, indirect, and consequential costs associated with the delay in achieving Substantial Completion, but the assessment of liquidated damages shall not limit nor waive or affect Owner's rights and GC/CM's obligations, liabilities and responsibilities for the breaches of other sections and requirements of the Contract Documents.

ARTICLE 6
TOTAL CONTRACT COST

- 6.1 General. The TCC has been mutually negotiated and agreed to by the Parties. GC/CM agrees that the Project is adequately defined, that Construction Documents are at least 90% complete, and has determined that the Project is sufficiently clear and understandable for GC/CM to agree to the TCC in this Agreement.⁹
- 6.1.1 This Agreement is entered into pursuant to the provisions of RCW 39.10. GC/CM agrees if the Work cannot be completed for the agreed MACC any additional costs, except as provided in the following sentence, shall be the responsibility of GC/CM, and GC/CM hereby assumes liability for such costs without reimbursement by Owner. Owner agrees that cost increases due to Owner-directed changes, design errors or omissions subject to section 4.01 of the General Conditions and unforeseen site conditions subject to section 5.10 of the General Conditions are Owner's responsibility.
- 6.2 Determination. The Total Contract Cost was determined through a negotiation of the MACC conducted prior to execution of this Agreement. GC/CM will not be reimbursed for attorney's fees or costs (or those of paralegals or other legal staff) for MACC negotiations work.¹⁰
- 6.3 Preconstruction Services. Prior to execution of this Agreement, Preconstruction Services were provided and are being provided pursuant to a contract for Preconstruction Services. Upon execution of a change order incorporating the MACC/Total Contract Cost for the entire Addition Project, GC/CM acknowledges and represents that the work and services of the contract for Preconstruction Services shall have been performed consistent with, and be subject to the rights and obligations set forth in this Agreement
- 6.4 Maximum Allowable Construction Cost ("MACC").
- 6.4.1 Calculation. The MACC is the amount, mutually agreed to between Owner and GC/CM that is required to complete all Work as described in the Contract Documents. The negotiated MACC shall include funds for all costs through the life of the Project, except those required for:
- 6.4.1.1 Preconstruction work.
- 6.4.1.2 Percent Fee.

⁹ The Total Contract Cost for limited scopes of Work authorized by Owner prior to Owner and GC/CM executing a change order incorporating the MACC/Total Contract Cost for the entire Addition Project will be set forth, as applicable, in the change order(s) authorizing such limited scopes of Work. Otherwise, the Total Contract Cost for the entire Addition Project shall be incorporated herein, if and when Owner and GC/CM agree upon and execute a change order incorporating the MACC/Total Contract Cost for the entire Addition Project.

¹⁰ The Total Contract Cost for limited scopes of Work authorized by Owner prior to Owner and GC/CM executing a change order incorporating the MACC/Total Contract Cost for the entire Addition Project will be set forth, as applicable, in the change order(s) authorizing such limited scopes of Work. Otherwise, the Total Contract Cost for the entire Addition Project shall be incorporated herein, if and when Owner and GC/CM agree upon and execute a change order incorporating the MACC/Total Contract Cost for the entire Addition Project.

6.4.1.3 Fixed Amount of Specified General Conditions work.

6.4.1.4 Owner-directed changes.

6.4.1.5 Other changes due to:

- (1) Design errors or omissions by those for whom GC/CM is not responsible; and
- (2) Unforeseen site condition, subject to applicable provisions of the General Conditions

6.4.1.6 Washington State Sales Tax.

6.4.2 GC/CM Responsibility: GC/CM shall be responsible for: (a) all costs related to Subcontractor claims or charges that result from mistakes or omissions in the subcontract buyout; (b) coordination errors and coordination omissions related to the coordinated shop drawings; (c) interference between Subcontractor and the GC/CM; (d) interference between Subcontractors; and (e) GC/CM's failure to coordinate the Work it self-performs with Work of other Subcontractors. Any increase in the cost of the Work or delay of the Work which is not directly attributable to the neglect or omission on the part of Owner or the A/E shall not increase the MACC and also shall not revise the time to achieve Substantial Completion.

6.4.3 Risk Contingency Account and GC/CM Incentive Fee: A Risk Contingency Account has been established in the amount of two percent (2%) of the Total for Subcontract Costs as identified in Exhibit B "Construction Cost Summary". The Risk Contingency Account is included in the MACC. GC/CM may utilize the Risk Contingency Account established herein to pay only for items for which it is responsible (as defined in section 6.4.2), except that GC/CM may not use the Risk Contingency Account for items that are defined as Percent Fee or as Specified General Conditions in sections 6.5.1 and 6.5.2. GC/CM's use of the Risk Contingency Account must be approved in advance by Owner. GC/CM shall provide Owner monthly updates on the use of the Risk Contingency Account. No incentives may be paid to GC/CM from this Account.

It is the Parties' intent to maximize the value of all aspects of the Project for the Owner, and specifically to provide Owner with the opportunity in its discretion to apply risk contingency funds to enhance the scope and/or quality of the Project. The Risk Contingency Account is divided into specific allocations and progress milestones related to phases of work as set forth in the table below. Following the completion of each progress milestone identified in the table, unused contingency funds will be released for use by Owner, reducing the total Risk Contingency Account percentage to the values listed in the table (or such greater or lesser amounts as the Owner and GC/CM may mutually agree). Owner and GC/CM will confer on potential additions/changes to the Work to which the released risk contingency funds may be applied, and additions/changes agreed to by Owner shall be confirmed in a Change Order(s). Any funds remaining in the Risk Contingency Account upon Substantial Completion of the Work shall be returned to Owner with the corresponding Percent Fee. The following table lists the progress milestones and corresponding limits in the Risk Contingency Account for the Project:¹¹

¹¹ The Owner may issue limited Notice(s) to Proceed with limited scopes of Work as set forth in and authorized by Owner prior to Owner and GC/CM executing a change order incorporating the MACC/Total Contract Cost for the entire Addition Project. There shall be no progress milestones and corresponding limits in the Risk Contingency Account for such limited scopes of Work. The Table for progress milestones and corresponding limits in the Risk Contingency Account for the entire Addition Project shall be completed and incorporated herein, if and when Owner and GC/CM agree upon and execute a change order incorporating the MACC/Total Contract Cost for the entire Addition Project.

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Milestones to be agreed upon with establishment of the MACC	__ TBD% maximum
Milestones to be agreed upon with establishment of the MACC	__ TBD % maximum
Milestones to be agreed upon with establishment of the MACC	__ TBD % maximum
Milestones to be agreed upon with establishment of the MACC	__ TBD% maximum

For any progress milestone listed in the table above, if the Risk Contingency Account has already been adjusted below the percentage limit associated with that milestone due to prior Owner-approved use of the funds, the Risk Contingency Account percentage shall not be further reduced for that stage of progress.

6.4.4 GC/CM Incentive Fee: GC/CM shall have the opportunity to obtain an Incentive Fee, in the total amount of one and seven tenths percent (1.70%) of the MACC for the entire Addition Project (as the same may be adjusted by approved change orders), but in no case may the GC/CM be entitled to a total Incentive Fee of more than Fourteen Million Dollars (\$14,000,000.00). Payment of the Incentive Fee will be based on Owner’s evaluation, in its sole discretion, of Contractor performance in the categories listed below. The Incentive Fee will be shown as a separate line item in the schedule of values. The Incentive Fee amount will be divided into four portions, and the GC/CM may earn a portion of the Incentive Fee at the completion of each of four Progress Stages for the entire Addition Project:

<u>Progress Stage</u>	<u>Incentive Fee Percentage</u>
Beginning of Structure at grade	10%
Topping Out of Structure	30%
Completion of Finishes	30%
Project Final Acceptance	30%

For each Progress Stage, the GC/CM’s eligibility for an Incentive Fee payment and the amount of the corresponding Incentive Fee payment, if any, shall be determined in Owner’s sole discretion but utilizing the following Incentive Criteria as guidelines:

<u>Incentive Criteria</u>	<u>Percentage</u>
General Performance	20%
Schedule	20%
Budget	20%
Quality	20%
Contracts	20%

At least two weeks prior to the expected date of completion for each Progress Stage, the GC/CM will provide Owner with a written self-evaluation of its performance related to the Incentive Criteria for that Progress Stage. Within thirty (30) days of receipt of the self-evaluation, Owner will review the GC/CM’s performance (including meeting with the GC/CM) and issue a written determination on whether GC/CM has earned an Incentive Fee payment for that Progress Stage, and if so in what amount. If Owner in its sole discretion determines GC/CM has earned an Incentive Fee payment for a Progress Stage, the corresponding amount shall be included in the GC/CM’s next monthly Application for Payment and will be payable by Owner in accordance with the procedures for monthly progress payments..

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- 6.4.5 Documentation. As part of the MACC negotiations, GC/CM has provided the following documentation, which document(s) is/are incorporated herein by reference as part of this Agreement as though fully included herein: Exhibit B to this Agreement "*Construction Cost Summary*".¹²
- 6.4.6 Negotiated Support Services. The estimated costs for items identified as Negotiated Support Services in Exhibit A "*Cost Allocation Matrix*" shall be specifically included in the MACC and identified as the Negotiated Support Services costs to be reimbursed by Owner on a direct cost basis, and/or paid as a lump sum based upon the percent complete.
- 6.4.7 Subcontract Plan: GC/CM's subcontract plan shall be developed as part of its services prior to construction and such plan may be modified during MACC negotiations with the consent of Owner. Such plan as approved by Owner is made a part of this Agreement. The subcontract plan shall include a statement regarding the Work GC/CM intends (if any) to bid on and to self-perform and an affidavit stipulating that such Work is customarily performed by GC/CM. Upon execution of this Agreement, GC/CM shall submit to Owner a procurement schedule for each package GC/CM intends to prepare to execute the Project.
- 6.5 Percent Fee and Specified General Conditions.
- 6.5.1 Percent Fee. GC/CM submitted a dollar amount on the Proposal which represented the Percent Fee stated as a percentage of the estimated MACC. The actual Percent Fee of the MACC stated on page one (1) of this Agreement is a set dollar amount calculated by multiplying the proposed fee percentage by the actual negotiated MACC not including Specified General Conditions. The Percent Fee amount shall be adjusted based on deductive or additive change orders by multiplying the proposed fee percentage by the actual amount of the change order. The Percent Fee shall cover the following:
- 6.5.1.1 All profit of GC/CM for this Project.
 - 6.5.1.2 All regional and home office overhead expenses, including labor and materials, travel, phone, facsimile, postage, and other incidental office expenses (such as data processing and similar activities) attributed to work on this Project.
 - 6.5.1.3 All overhead expenses of GC/CM for participation in and support of the bidding process for Subcontractor work on the Project.
 - 6.5.1.4 All of GC/CM's non-OCIP insurance costs for this Project (except for worker compensation insurance called out as labor burden in the General Conditions to this Agreement).
 - 6.5.1.5 All of GC/CM's Performance/Payment Bonds costs for this Project.
- 6.5.2 Specified General Conditions Work. This Agreement identifies the dollar amount for the "Fixed Amount for Specified General Conditions" Work. Exhibit A, "*Cost Allocation Matrix*",

¹² The Owner may issue limited Notice(s) to Proceed with limited scopes of Work as set forth in and authorized by Owner prior to Owner and GC/CM executing a change order incorporating the MACC/Total Contract Cost for the entire Addition Project. Construction Cost Summary information for limited scopes of Work authorized by Owner prior to Owner and GC/CM executing a change order incorporating the MACC/Total Contract Cost for the entire Addition Project will be set forth, as applicable, in the change order(s) authorizing such limited scopes of Work. Exhibit B "*Construction Cost Summary*" for the entire Addition Project shall be completed and incorporated herein, if and when Owner and GC/CM agree upon and execute a change order incorporating the MACC/Total Contract Cost for the entire Addition Project.

summarizes the costs associated with Specified General Conditions Work. Specified General Conditions Work must be performed at the expense of GC/CM and may not be made part of a subcontract bid except when so required by the Specifications and approved by Owner.

6.6 Subcontract Buyout Procedure.

6.6.1 Subcontract Award. When subcontract bid packages are awarded, they shall be awarded pursuant to RCW 39.10.380 through RCW 39.10.410. Subcontractor mark ups for overhead and profit shall not exceed eight percent (8%) for each subcontractor unless otherwise approved by Owner. Subcontractor mark-up on subtier Subcontractors shall not exceed five percent (5%).

6.6.2 Updated Subcontract Plan and Other Requirements. Before soliciting subcontract bids (including but not limited to bids by design-build subcontractors), GC/CM shall submit for review and approval by Owner: (a) an updated Subcontract Plan outlining the subcontract packages with bid package estimates and a procurement schedule for each package; (b) an Outreach Plan outlining the program and goal achievement strategies GC/CM intends to implement, and addressing GC/CM's proposed actions to comply with the requirements of Part 10 of the General Conditions; (c) bidding instructions; (d) standard Subcontractor agreements; and (e) the schedules required by sections 3.2.3.5 and 3.2.4.4.

6.6.2.1 No allowances shall be included in Subcontractor bid documents if not included in the MACC negotiations or without prior approval of Owner. Denial or approval of any allowance shall not result in a change in the MACC. If Owner agrees an allowance is appropriate within a Bid Package Estimate (BPE), the following procedures will be implemented:

- (1) GC/CM will provide a schedule of allowances included in the BPE.
- (2) Allowances will be tracked by GC/CM on a Time & Materials (T&M) basis and shown on the Schedule of Values as a discrete line item for each appropriate Subcontractor.
- (3) A deductive Change Order will be issued at the end of the Project for any remaining allowances along with GC/CM's Percent Fee multiplied by the amount of unused allowance reconciling all allowance items.

6.6.3 Bid Documents Reproduction Costs. Reproductions of bid sets as required for bidding is an Owner expense. Reproductions of conformed documents to provide a consolidated Construction Document set due to phased permitting and partial Construction Document issuance is Owner's expense. The GC/CM will utilize and pay the reprographics company designated by the Owner's representative, for all other copies of bid documents as part of reimbursable Costs of the Work.

6.6.4 Bidding. GC/CM shall bid out subcontracts in accordance with its approved updated Subcontract Plan and in accordance with all requirements stipulated in RCW 39.10.340 through 39.10.410. During subcontract buyout, GC/CM may request a change in its Subcontract Plan, and Owner will not unreasonably withhold approval, provided the sum of all final bid package estimates in the Subcontract Plan as revised does not exceed the MACC.

6.6.5 Negotiations. If the low responsive bid for a particular bid package is greater than the bid package estimate, then the provisions of RCW 39.10.380 shall apply (except to the extent the procedures of RCW 39.10.385 have been used and in which case the provisions of RCW 39.10.385 shall apply). All time delays and costs, including A/E costs associated with the negotiations and/or changes to the Construction Documents shall be the responsibility of GC/CM.

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- 6.6.6 Award or Rebid. If GC/CM chooses not to negotiate under the provisions of section 6.6.5 above or if the low conforming bid exceeds the bid package estimate by more than the amount permitting negotiations, GC/CM shall award the bid package to the low responsive responsible bidder at no additional cost to Owner. Provided unusual circumstances exist, GC/CM may request and Owner, in its absolute discretion, may agree to a change in the scope of the work for the bid package. GC/CM may then rebid, but all time delays, including construction schedule impacts, and costs to rebid, including reproduction costs and any A/E costs to Owner associated with changes to the Construction Documents, shall be the responsibility of GC/CM and the MACC shall not be changed, and rebidding costs are specifically not reimbursable Negotiated Support Services costs.
- 6.6.7 Bid Protest. GC/CM shall be responsible for reviewing and responding to bid protests and shall adhere to the requirements of RCW 39.10.380 (or of RCW 39.10.385 as may be applicable) in the event of a bid protest. All time delays, including construction schedule impacts, and costs related to bid protests shall be the responsibility of GC/CM and the MACC shall not be changed, and bid protest costs are specifically not reimbursable Negotiated Support Services costs.
- 6.6.8 Subcontractor Buyout Losses and Buyout Savings. Unless otherwise directed by Owner in writing, GC/CM shall execute binding agreements with all Subcontractors (and shall endeavor to have all Subcontractors execute binding agreements with all Sub-subcontractors) and shall otherwise complete buyouts of ninety percent (90%) of the dollar value of all subcontracted Work for the Project within one hundred eighty (180) calendar days of the after the mutual execution of a change order incorporating the MACC/Total Contract Cost for the entire Addition Project (“Buyout Period”).¹³ Within fourteen (14) calendar days after the end of the Buyout Period, GC/CM shall submit to Owner a detailed accounting of all buyouts for Subcontractors showing the difference between (a) the amounts set forth in the Schedule of Values for the subcontracted Work that has been bought out and (b) the actual buyout costs for such subcontracted Work (“Buyout Log”). The line items in the Schedule of Values may include costs anticipated by GC/CM which are outside the Subcontractors’ subcontract. Such costs will be identified to the Owner in the Buyout Schedule but shall not constitute “buyouts”. The amount by which the amounts set forth in the Schedule of Values for the subcontracted Work exceeds the actual buyout costs for such subcontracted Work (“Buyout Savings”), if any, shall be allocated to a Buyout Savings line-item in the Schedule of Values. Any buyout losses (i.e., the amount by which the actual buyout costs exceeds the amounts set forth therefor in the Schedule of Values) (“Buyout Losses”) shall be offset against any Buyout Savings; provided however, to the extent the total Buyout Losses exceed the total Buyout Savings, such excess may only ever be charged against the Risk Contingency Account. Any and all net Buyout Savings shall be credited to Owner’s account by means of a deductive change order issued promptly after Owner’s receipt of the Buyout Log. (Note that this section pertains to Subcontractor buyout savings, as opposed to any savings derived from the completion of the work of mechanical or electrical subcontractors for less than the maximum allowable subcontract cost(s) – which savings are to become part of the Risk Contingency Account per RCW 39.10.385(11)).
- 6.6.9 Subcontractor Non-Performance. If any Subcontractor to whom a bid package has been awarded is unable to perform for whatever reason, GC/CM shall have the option to rebid or negotiate for the performance of the work or perform the work itself. GC/CM shall bear all risk and/or be responsible for cost overruns occasioned by a Subcontractor’s inability to perform.

¹³ The Owner may issue limited Notice(s) to Proceed with limited scopes of Work as set forth in and authorized by Owner prior to Owner and GC/CM executing a change order incorporating the MACC/Total Contract Cost for the entire Addition Project. With respect to such limited scopes of Work, GC/CM shall promptly complete buyouts of ninety percent (90%) of the dollar value of all subcontracted Work after the mutual execution of a change order(s) for the limited scopes of Work.

- 6.6.10 Owner-Furnished Equipment. GC/CM shall perform all work required to subcontract the installation of Owner Furnished Contractor Installed equipment (OFCE).
- 6.7 GC/CM Cost Accounting.
- 6.7.1 Accounting. Starting with the award of the first bid package, GC/CM shall, in accordance with directions given and formats developed by Owner, provide Owner with monthly reports, including but not limited to, a cash flow showing expenditures on all bid packages, all Agreement changes, and all Negotiated Support Services costs including forecast-to-final completion updates. GC/CM claims shall be accounted for separately. GC/CM recognizes that reimbursable Costs of the Work may only include actual costs reasonably and necessarily incurred, and that the Percent Fee on the Project is the Percent Fee stated on page one (1) of this Agreement.
- 6.8 Performance and Payment Bond. Prior to execution of this Agreement by Owner, GC/CM shall provide Owner with performance and payment bonds in a form and with a surety acceptable to Owner for the full amount of the TCC.¹⁴

ARTICLE 7
SUBCONTRACTING

- 7.1 Competitive Bidding Required. Other than the Specified General Conditions and Negotiated Support Services Work, all Work on the Project shall be competitively bid with public bid openings. Subcontract Work shall not be issued for bid until GC/CM has completed the requirements of section 6.6.2. To the extent that the Work qualifies for the use of the alternative subcontractor selection process authorized by RCW 39.10.385, the GC/CM may, in conjunction with the Owner, employ this approach in the selection of the mechanical and/or electrical subcontractor(s).
- 7.2 Self-Performance by GC/CM. Only with the advance approval of Owner and in accordance with the requirements of RCW 39.10, GC/CM may bid on (a) subcontract work and/or (b) supply of equipment and materials which it customarily performs or supplies. GC/CM may bid on a subcontract package only if Owner in its sole discretion agrees to manage the bid process for that package in accordance with RCW 39.10.390. If Owner chooses not to manage the bid process for a subcontract package, GC/CM shall not have the right to bid on that package and GC/CM shall manage the bid process in accordance with RCW 39.10.380 (or RCW 39.10.385 with Owner's advance approval). GC/CM's interest in the Work shall not diminish its duty to aggressively seek competition for bid packages. In the event GC/CM will be bidding on subcontract work, the bid opening will be managed by Owner and notice of GC/CM's intention to bid shall be included in the public solicitation for bids for that bid package. In no event may the value of the subcontract Work performed by GC/CM exceed thirty percent (30%) percent of the MACC. GC/CM must provide staff to supervise and manage subcontract packages it undertakes that is separate and distinct from the staff involved in the management of this Agreement. In no event may GC/CM or its subsidiaries purchase equipment or materials for assignment to Subcontractors for installation or warranty. GC/CM's mark-up on self-performed labor shall be limited to the agreed Percent Fee applied to the base burdened labor cost, and no additional mark-up for overhead/profit or other cost classification shall be permitted.
- 7.3 Prequalification. When it is in the best interest of the Project and critical to the successful completion of a subcontractor bid package as determined by Owner, Owner and GC/CM may determine Subcontractor eligibility to bid prior to seeking bids based on the criteria set forth in RCW 39.10.400. Subcontract bid packages shall be awarded to the responsible pre-qualified bidder submitting the low responsive bid.

¹⁴ The Owner may issue limited Notice(s) to Proceed with limited scopes of Work as set forth in and authorized by Owner prior to Owner and GC/CM executing a change order incorporating the MACC/Total Contract Cost for the entire Addition Project. With respect to such limited scopes of Work, GC/CM shall provide Owner with performance and payment bonds in a form and with a surety acceptable to Owner for the full amount of the change order(s) for the limited scopes of Work.

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- 7.4 Subcontractor Bid Packages. GC/CM may: (a) with approval by Owner organize and solicit bids for the subcontract work in whatever combinations or packages it chooses; (b) not use any allowances except as provided in section 6.6.2; and (c) not use any alternates without approval of Owner, unless such alternates were specified in the MACC. GC/CM shall provide Owner with a list of all entities owned by, affiliated with, or effectively controlled by GC/CM (and of any individual joint venturer of GC/CM) (referred to herein as "Related Parties") If any Related Parties intend to bid on a subcontract package, GC/CM shall disclose this to Owner in advance of issuing any subcontract package.
- 7.4.1 GC/CM shall submit: (a) a draft and final bid package specific scope of work, and; (b) Bid Forms for each subcontract package for Owner's review ten (10) calendar days prior to bidding, and; (c) summary of how bid packages are broken up to help facilitate Outreach Plan. Changes to the final bid package documents shall not occur without Owner's approval.
- 7.5 Cost of Subcontracting Process. GC/CM shall be responsible for all costs associated with the subcontracting process including, but not limited to:
- 7.5.1 Developing solicitations for subcontract packages.
- 7.5.2 Pre-qualification and subcontract procurement.
- 7.5.3 Site tours.
- 7.5.4 Responding to questions from bidders.
- 7.5.5 Providing bid opening facility.
- 7.5.6 Bidding in accordance with the requirements of this section.
- 7.5.7 Subcontractor award.
- 7.6 Solicitations of Subcontractors. Solicitations of Subcontractors by GC/CM shall be made in accordance with the following procedures:
- 7.6.1 A representative from Owner will be present at each bid opening to observe the procedure. In the event GC/CM is bidding on a subcontract package, Owner will conduct the bid opening.
- 7.6.2 Solicitations for bids will be advertised in advance in the Seattle Daily Journal of Commerce newspaper.
- 7.6.3 Bidders may obtain the bid results by telephone from GC/CM. All such calls will be referred to GC/CM.
- 7.6.4 Responsiveness requirements and bidding procedures will be described in each bid solicitation and, along with subcontractor joint venture requests and outreach requests, will be reviewed with Owner prior to each bid opening.
- 7.7 Subcontractor Bonding. For Subcontract bid packages with a bid estimate over Three Hundred Thousand Dollars (\$300,000), GC/CM shall require a bid bond in the amount of five percent (5%) of the amount bid from Subcontractors who bid. GC/CM shall require a performance and payment bond from all Subcontractors who are awarded a contract over Three Hundred Thousand Dollars (\$300,000), in the amount of the Subcontract. GC/CM may require a performance and payment bond of any other Subcontractor, provided that such requirement is set forth in the Subcontract bid documents. GC/CM acknowledges that all costs of Subcontractor bonding are included in the negotiated MACC on page 1 of this Agreement.

- 7.8 General. Subcontract procedure, bidding and agreements shall be in compliance with all of the applicable provisions of Chapter 39.10 RCW.

ARTICLE 8
MISCELLANEOUS PROVISIONS

- 8.1 Builder's Risk. Owner shall provide Builder's Risk Insurance per the General Conditions. Any deductibles under said insurance shall be for the account of GC/CM and/or Subcontractors, or their agents and employees, should the loss arise from their operations. If loss is attributable to the GC/CM and/or the Subcontractors, the GC/CM and/or the Subcontractors shall be responsible, at their own expense, for payment of a deductible as follows:

\$25,000 per claim for the first claim;
\$50,000 per claim for the second claim; and
\$100,000 per claim for each claim after the first two claims.

- 8.2 Audit. Owner shall have the right to audit. Upon request by Owner, GC/CM shall provide Owner full access to all of GC/CM's data, records, accounts or materials relevant to the performance of this Agreement. The GC/CM should anticipate annual audits at a minimum, plus one at completion of the Project, but Owner shall have the right to full access and review of all of GC/CM's data, records, accounts, communications, and any other materials relevant to the performance of this Agreement and the Work at any time. Pre-audits should be anticipated for GC/CM and major Subcontractors.
- 8.3 Sales Tax. The actual amount of sales tax to be paid to GC/CM will be based on the then current sales tax percentage applied to actual MACC progress payments, inclusive of approved change orders. For the purposes of invoicing, GC/CM shall not include sales tax as part of the TCC in its pay applications, but the appropriate amount of sales tax will be added by Owner to each progress payment collected by GC/CM from Owner, and paid to the State of Washington by GC/CM.
- 8.4 Attorneys' Fees. In the event either Party shall bring legal action for the breach of, to interpret or to enforce the Contract Documents, the substantially prevailing Party shall be entitled to an award of its legal costs, expert fees, and reasonable attorneys' fees, expenses and court costs, including without limitation, those relating to any appeal. The provisions of this section shall survive the expiration or termination of the Contract Documents.
- 8.5 Interpretation. The Contract Documents have been carefully reviewed and negotiated by both Parties at arm's length and by each party's legal counsel, and the Contract Documents shall be given fair and reasonable interpretation in accordance with the words contained in them without any weight being given to whether a provision was drafted by one Party or its counsel. Captions and headings are for convenience only and shall not be a part of the Contract Documents or considered in their interpretation. The Exhibits attached hereto are made a part hereof. The word "including" and the phrases "including but not limited to" and "including without limitation" shall all be interpreted to have the same meaning and be construed as illustrative and not limiting.
- 8.6 Waiver, Amendment and Extension. No waiver, amendment, extension or variation in the terms of the Contract Documents shall be valid against a party unless in writing and signed by such Party and then only to the extent specifically set forth in the writing. No failure or delay on the part of a Party in exercising any right, power or privilege under the Contract Documents, nor any course of dealing between the Parties, will waive, amend or vary the terms of the Contract Documents.
- 8.7 Relationship/Approvals. GC/CM at all times is acting as an independent contractor under the Contract Documents. Nothing in the Contract Documents is intended or shall be construed as creating any other relationship or designating GC/CM as an agent for or joint venture with Owner. Whenever the Contract Documents mention or require an approval, consent, decision, acceptance, determination, authorization or election of or by GC/CM or Owner, such approval, consent, decision, acceptance, determination, authorization or election may be granted, made or withheld at such party's good faith discretion, unless

otherwise specifically provided in the Contract Documents. Good faith shall mean actions taken or omitted to be taken that are not primarily motivated by a desire to cause injury to the other party and are neither arbitrary nor capricious. GC/CM will strive to create value for Owner and deliver the Project in the same way and spirit that Lease Crutcher Lewis delivered Via6 or Pacific Place if Via6 does not apply. If something is not clear within the Project, GC/CM and Owner will revert to the way it was handled on Via6 and Pacific Place.

- 8.8 Extent of Agreement. The terms of the Contract Documents are intended by the Parties to be a final expression of their understanding with respect to the Project and may not be contradicted by evidence of any prior or contemporaneous statements or understandings. No addition to, deletion from or modification of any term or provision of the Contract Documents shall be effective unless it is made in a writing signed by the Parties.
- 8.9 Severability. If any clause or provision of the Contract Documents is determined to be illegal, invalid, or unenforceable under present or future laws, the remainder of the Contract Documents shall not be affected by such determination, and in lieu of each clause or provision that is determined to be illegal, invalid or unenforceable, there shall be added as part of the Contract Documents a clause or provision as similar in terms to such illegal, invalid or unenforceable clause or provision as may be possible and be legal, valid and enforceable.
- 8.10 Notices. All notices or other communications required or permitted hereunder shall be in writing, and shall be personally delivered or sent by registered or certified mail, postage prepaid, return receipt requested, or sent by facsimile or delivered via Federal Express, Express Mail, or a similar courier to the address set forth below, and shall be deemed received upon the earlier of actual receipt or (a) if personally delivered, the date of delivery to the address of the person to receive such notice, (b) if mailed, four (4) business days after the date of posting by the United States Post Office, (c) if given by facsimile, when sent or (d) if given by overnight mail or courier service, the following business day. Any notice of default or demand for performance sent by facsimile must be confirmed within forty-eight (48) hours by letter mailed or delivered in accordance with the foregoing.

If to Owner:

Washington State Convention Center
705 Pike Street
Seattle, WA 98101
Attn: Lisa Irwin
Facsimile number: 206.694.5191
Telephone number: 206.694.5023

With a copy to:

Pine Street Group L.L.C.
1500 4th Avenue, Suite 600
Seattle, WA 98101
Attn: Matt Rosauer
Facsimile number: 206.428.3000
Telephone number: 206.340.9210

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If to GC/CM:

Clark-Lewis JV
2200 Western Avenue, Suite 500
Seattle, WA 98121
Attn: Katie Twomey
Facsimile number: 206.622.6541
Telephone number: 949.375.7454
Email: katie.twomey@clarkconstruction.com

With a copy to:

Clark Construction Group, LLC
7500 Old Georgetown Road
Bethesda, MD 20814
Attn: Paul Ryan
Facsimile number: 301.272.1916
Telephone number: 301.272.8180
Email: paul.ryan@clarkconstruction.com

Notice of change of address shall be given by written notice in the manner detailed in this section.

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement by having their authorized representatives affix their signatures below.

OWNER

WASHINGTON STATE CONVENTION CENTER,
a King County public facilities district

GC/CM

CLARK-LEWIS JV,
a Joint Venture comprised of Clark Construction
Group, LLC and Lease Crutcher Lewis WA LLC

By: _____

By: _____

Name: _____

Name: _____

Title: _____

Title: _____

Date: _____, 2017

Date: _____, 2017

APPROVED as to FORM:

Matthew R. Hendricks, WSCC General Counsel

Date: _____

Exhibit O
Construction Agreement

Exhibit A – Cost Allocation Matrix
(to attach)

Exhibit O Construction Agreement

COST ALLOCATION MATRIX

NOTE: This Cost Allocation Matrix is intended to guide GC/CM Cost, Specified General Conditions, and Fee. In the event of inconsistency or conflict, the Agreement and General Conditions supersede this matrix. If any of the stipulated rates provided below are considered insufficient for that line item, the GC/CM shall include that cost difference in their Specified General Conditions or Fee, as appropriate.

Preconstruction Services					
Item	Owner Cost	Cost of Work (Negotiated Support Services + Subcontracted Work)	Specified General Conditions	Fee	Comment
Estimating		X			
Outreach Plan		X			
Scheduling		X			
Meeting minutes		X			
Analysis of market conditions		X			
VE and marginal analysis studies		X			
Constructability reviews		X			
BIM modeling and clash detection		X			
Development of MAAC		X			
Legal fees associated with contract negotiations		X			
Subcontractor buyout planning and execution		X			Includes advertisements/marketing and pre-bid conferences.
Bid analysis and award recommendations		X			
Coordination of subcontracts and work				X	

Construction Services					
Item	Owner Cost	Cost of Work (Negotiated Support Services + Subcontracted Work)	Specified General Conditions	Fee	Comment
Insurance outlined in the OCIP	X				
Builders' Risk Insurance	X				
Builders' Risk Insurance deductible	X				
Boiler and Machinery Insurance	X				
Washington State Sales Tax (WSST)	X				
Commissioning authority	X				
Building Permit	X				
Master Use Permit	X				
Coordination of Owner contracts	X				
Existing hazardous and material waste disposal	X				
Final utility hookups	X				
Special inspections and independent testing	X				
Cell phones		\$110/month	Any costs beyond stipulated rate.		Applies to staff that are typically supplied with company cell phones or reimbursed for the cost of their personal cell phone.
On-site computer hardware and software		\$150/month	Any costs beyond stipulated rate.		Includes tablets, monitors, small printers, and other equipment used by the staff in the normal course of work. Plotters and large multifunction and all-in-one printers (>\$10,000) will be leased in cost of work.
Parking		\$250/month	Any costs beyond stipulated rate.		Applies to staff that are provided parking under standard company policy.
Delivery fees		\$30/delivery	Any costs beyond stipulated rate.		
Trucks		\$900/month	Any costs beyond stipulated rate.		Applies to vehicles provided under standard company policy. Inclusive of gas, oil, and maintenance.
Salaried employees labor burden		32%	Any costs beyond stipulated rate.		
Union-affiliated salaried employees labor burden		42%	Any costs beyond stipulated rate.		
Hourly craft employees labor burden		55%	Any costs beyond stipulated rate.		
Hourly craft employees OT labor burden		40%	Any costs beyond stipulated rate.		
Hourly temp employees (including interns) labor burden		25%	Any costs beyond stipulated rate.		
Small tools (≤ \$500)		1.5% of base craft labor up to a maximum of \$30,000		Any costs beyond stipulated rate.	
Large tools (> \$500, rental or purchase)		65% of rental rate up to a maximum of 70% of fair market value		Any costs beyond stipulated rate.	
Training		Job-specific training will be reimbursed at cost			Company-wide or other general training costs are not reimbursable.
PTO		Reimbursed at cost			
GC/CM project staff		X			
Estimating		X			
Outreach Plan		X			
Scheduling		X			
Meeting minutes		X			
Analysis of market conditions		X			
VE and marginal analysis studies		X			
Constructability reviews		X			
BIM modeling and clash detection		X			

Exhibit O Construction Agreement

COST ALLOCATION MATRIX

Construction Services Item	Owner Cost	Cost of Work (Negotiated Support Services & Subcontracted Work)	Specified General Conditions	Fee	Comment
Subcontractor buyout planning and execution		X			Includes advertisements/marketing and pre-bid conferences.
Bid analysis and award recommendations		X			
Coordination of subcontracts and work		X			
Local and State Business and Occupation Tax		X			
Relocation		X			Subject to owner approval.
Travel related to out-of-town work		X			Subject to owner approval.
Travel for execution of the work		X			Subject to owner approval.
On site safety program		X			No home-office or offsite safety program expenses will be reimbursed. On-site safety personnel should be included in staffing plan; safety equipment should be included under "small tools".
Audit support and preparation		X			Limited to \$_____ per audit.
Meetings and tours related to execution of the work		X			
Coordination for obtaining approvals		X			
Coordination of subcontract bid packages		X			
Traffic control plan		X			
Street sweeping		X			
General cleaning		X			
Cleaning required for specific trades		X			
Final cleaning		X			
Removal of debris during performance of work		X			
Transportation, loading, unloading, assembly, dismantling, and removal		X			
Reproduction costs		X			The GC/CM will endeavor to minimize reproduction costs.
Project photographs		X			
Additional staging space		X			
Operation and Maintenance manuals		X			
Provide and maintain construction lighting		X			
Temporary heat (equipment and materials)		X			
Toilet and hand washing facilities		X			
Closout procedures		X			
Cost accounting		X			
Change order preparation procedures		X			
Trade permits		X			
Services, materials, equipment, labor, construction equipment, machinery, tools, and fuel		X			
Cutting, fitting, and patching		X			
Patents and royalty payments and fees		X			
Tests and inspection		X			
Equipment and supplies incorporated in the work		X			
Shop drawings		X			
Subcontractor chemicals reporting		X			
Inspection access		X			
All inspections not specifically called out in the contract documents		X			
Protect building products		X			
Project signs		X			Signage used for contractor marketing is not reimbursable.
Primary survey and control		X			
Project identification		X			
HVAC filters		X			
Elevator operations		X			
Temporary dehumidification		X			Reimbursed at cost.
Warranties and bond manuals		X			
Provide and install equipment for construction power		X			
Temporary water and piping		X			
Drinking water		X			
GC/CM coordination of Owner's contractors		X			
Punch list preparation and administration		X			
Extended equipment warranties		X			
Shop drawing review and processing		X			
Utility charges		X			
Storage		X			
Commissioning		X			
Mockups		X			Unless purchased in subcontractor scope of work.
Construction waste		X			
Owner's field office		X			
GC/CM, ECCM, and MCCM field offices		X			
GC/CM field offices		X			
Subcontractor buyout planning and execution		X			Includes advertisements/marketing and pre-bid conferences.
Temporary provisions		X			
Fire watch and temporary fire protection		X			
Dust control unless included in subcontractor bids		X			
Temporary sanitation		X			
Generator fuel		X			

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COST ALLOCATION MATRIX

Construction Services					
Item	Owner Cost	Cost of Work (Negotiated Support Services + Subcontracted Work)	Specified General Conditions	Fee	Comment
Temporary heat (fuel)		X			
Flaggers and uniformed traffic control		X			
Erosion control		X			
Cranes and hoisting		X			
Temporary enclosures		X			
Temporary site fences		X			
GC/CM BIM services		X			
Managing regulatory requirements		X			
Coordination of testing lab		X			
Application for payments		X			
Safety and protection		X			
Warranty administration		X			Reimbursed at cost.
Systems training		X			
Coordinate and obtain permits		X			
All costs incurred prior to signing Preconstruction Agreement				X	
Business licenses				X	
Liquidated Damages				X	
Non-conforming work				X	
Retainage bond and escrow fees				X	
Performance and payment bond				X	GC/CM will be reimbursed for the bond premium during the payment period when the premium is paid, subject to the limitation that the total of the GC/CM's Percent Fee + GC/CM's non-OCIP insurance costs + GC/CM's performance and payment bond costs may not exceed 4.25% of
Premium adjustment for bonds				X	
Insurance required by the contractor				X	
Builder's Risk Insurance deductible due to contractor negligence				X	
Contractor's home and branch offices				X	
Overhead and profit				X	
Bonuses				X	
Correction or removal of defective work				X	
Data processing/payroll				X	Applies to off-site expenses. On-site payroll and accounting personnel should be included in staffing plan.
IT/support				X	Applies to expenses for main office IT overhead, on-site IT personnel should be included in staffing plan.
Home office equipment purchasing fee				X	Unless approved by Owner.

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Exhibit B – Construction Cost Summary

(The Construction Cost Summary for limited scopes of Work authorized by Owner prior to Owner and GC/CM executing a change order incorporating the MACC/Total Contract Cost for the entire Addition Project will be set forth, as applicable, in the change order(s) authorizing such limited scopes of Work. Otherwise, the Construction Cost Summary for the entire Addition Project shall be incorporated herein, if and when Owner and GC/CM agree upon and execute a change order incorporating the MACC/Total Contract Cost for the entire Addition Project.)

[Blank Sample Template Example]
[DATE]

Bid Pkg #	Description of Bid Package (or CSI modified format)	Initial Contract Value	Value of All Previous Changes	Value of Current Change	Contract Value to Date
Line #	Subtotal for Direct Subcontract Work	\$	\$	\$	\$
1					
2	Negotiated Support Services	\$	\$	\$	\$
3	GC/CM Staffing Costs	\$	\$	\$	\$
4	Subtotal (Add Lines 1, 2 and 3)	\$	\$	\$	\$
5	Estimating/Design Contingency	\$	\$	\$	\$
6	Escalation	\$	\$	\$	\$
7	Subtotal (Add Lines 4, 5 and 6)	\$	\$	\$	\$
8	Risk Contingency (Line 7 x 2 %)	\$	\$	\$	\$
9	B&O Taxes (Line 15 x tax rate)	\$	\$	\$	\$
10	MACC SUBTOTAL (Add Lines 7, 8 and 9)	\$	\$	\$	\$
11	Fixed Amount for Specified General Conditions	\$	\$	\$	\$
12	SUBTOTAL (Add Lines 10 and 11)	\$	\$	\$	\$
13	GC/CM Fee (Line 10 x 4.26 %)	\$	\$	\$	\$
14	Incentive Fee (Line 10 x 1.7% Capped @ \$14,000,000)	\$	\$	\$	\$
15	Total Contract Cost (TCC) (Add Lines 12, 13 and 14)	\$	\$	\$	\$
16	Preconstruction Services	\$	\$	\$	\$
17	TCC plus Preconstruction Services (Add Lines 15 and 16)	\$	\$	\$	\$

Ref.	Risk Contingency & Fee Percentages Applicable to This Contract	
Line 8	GC/CM Risk Contingency Percentage	2%
Line 13	GC/CM Percent Fee, inclusive of GC/CM's payment and performance bond costs and non-OCIP insurance costs	4.26%

Note:
Sales tax applies to the contract value at rate applicable when work is performed

Exhibit O
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Exhibit D – Budget Qualifications and Exclusions

(Budget Qualifications and Exclusions for limited scopes of Work authorized by Owner prior to Owner and GC/CM executing a change order incorporating the MACC/Total Contract Cost for the entire Addition Project will be set forth, as applicable, in the change order(s) authorizing such limited scopes of Work. Otherwise, Budget Qualifications and Exclusions for the entire Addition Project shall be incorporated herein, if and when Owner and GC/CM agree upon and execute a change order incorporating the MACC/Total Contract Cost for the entire Addition Project.)

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Exhibit E – Schedule

(The Schedule, if any, for limited scopes of Work authorized by Owner prior to Owner and GC/CM executing a change order incorporating the MACC/Total Contract Cost for the entire Addition Project will be set forth, as applicable, in the change order(s) authorizing such limited scopes of Work. Otherwise, the Schedule for the entire Addition Project shall be incorporated herein, if and when Owner and GC/CM agree upon and execute a change order incorporating the MACC/Total Contract Cost for the entire Addition Project.)

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Exhibit F – Project Labor Agreement
(to attach)

**Exhibit O
Construction Agreement**

Exhibit F

PROJECT LABOR AGREEMENT

FOR THE

**WASHINGTON STATE CONVENTION CENTER
ADDITION PROJECT**

BETWEEN

WASHINGTON STATE CONVENTION CENTER PUBLIC FACILITIES DISTRICT

AND

SEATTLE/KING COUNTY BUILDING AND CONSTRUCTION TRADES COUNCIL

THE PACIFIC NORTHWEST REGIONAL COUNCIL OF CARPENTERS

April 2017

Washington State Convention
Center Addition Project

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PREAMBLE and DEFINITIONS

This Project Labor Agreement (hereinafter, the "Agreement" or "PLA") is entered into the 21 day of April, 2017 by and between the Washington State Convention Center Public Facilities District (hereinafter, the "Owner") and the Seattle/King County Building and Construction Trades Council and the Pacific Northwest Regional Council of Carpenters acting on their own behalf and on behalf of their respective affiliates and members whose names are subscribed hereto and who have, through their duly authorized officers (hereinafter referred to collectively as the "Union(s)" or "Local Union(s)") executed this Agreement with respect to the work as described in Article 2 Scope of Agreement (hereinafter, the "Project").

The Owner will implement this Agreement by including it in the bid documents, contract specifications and other contract documents for work covered by the Agreement as hereinafter defined. Therefore, the Unions agree that other Contractors may execute the Agreement for purposes of covering such work. A PLA Administrator (hereinafter, the "Administrator") chosen by the Owner, and agreed to by the Unions (which shall not be unreasonably withheld), will monitor to ensure compliance with this Agreement by all Contractors who through their execution of the Letter of Assent are covered by the Agreement.

The term "Contractor" includes all construction Contractors and Subcontractors of whatever tier, engaged in construction work within the scope of this Agreement, as provided in Article 2.

The term "GC/CM" refers to the General Contractor/Construction Manager.

The Owner, GC/CM, the Unions and all signatory Contractors agree to abide by the terms and conditions contained in this Agreement. This Agreement represents the complete understanding of the parties, and no Contractor is or will be required to sign any other agreement with a signatory Union as a condition of performing work within the scope of this Agreement. No practice, understanding or agreement between a Contractor and a Union party which is not specifically set forth in this Agreement will be binding on any other party, except that if the PLA is silent on any issue the local crafts collective bargaining agreement (CBA) shall prevail.

The Unions agree that this Agreement will be made available to, and will fully apply to, any successful bidder for Project work who becomes a signatory hereto, without regard to whether that successful bidder performs work at other sites on either a Union or a non-Union basis, and without regard to whether employees of such bidder are or are not members of any Union. This Agreement shall not apply to the work of any Contractor that is performed at any location other than the Project site as defined in this Agreement.

ARTICLE 1 - PURPOSE

1.1 The Parties to this Project Labor Agreement (PLA) acknowledge that construction of the Washington State Convention Center is important to the continued development of a vibrant downtown corridor. The Parties recognize the need for timely completion of this Project without interruption or delay. This Agreement enhances cooperative efforts between the parties, through establishment of a framework for labor-management cooperation and stability.

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1.2 The Owner, Contractor(s) and Unions agree that the timely construction of these Projects will require substantial numbers of employees from construction and supporting crafts possessing skills and qualifications vital to its completion. They will work together to furnish skilled, efficient craft workers to construct the Project.

1.3 The parties desire to stabilize wages, hours and working conditions for craft workers on this project, to encourage close cooperation between the Contractor(s) and Unions for a satisfactory, continuous and harmonious relationship between the parties to this Agreement.

1.4 In recognition of the special needs of this Project and to maintain a spirit of harmony, labor-management peace, and stability, the parties agree to abide by the terms and conditions in this Agreement, and establish effective and binding methods for settlement of misunderstandings, disputes or grievances that may arise. The Contractor(s) agree not to engage in any lockout, and the Unions agree not to engage in any strike, slow-down, or interruption or other disruption of or interference with the work covered by this Agreement.

ARTICLE 2 - SCOPE OF AGREEMENT

2.1 This Agreement shall apply and is limited to all new construction as defined in this Article and performed by the GC/CM and Contractors of any tier who have been awarded contracts for such work, covering construction, including rework, and other construction-related activities originating on-site and necessary to the Project as described herein ("Covered Work"). Contractors of every tier who perform Covered Work must agree to accept and be bound by all Agreement terms and conditions, and sign a Letter of Assent (Attachment A) before commencing work. The PLA shall also apply to any art work installed by the Contractors. Any Covered Work defined in RCW 39.12 will be subject to the PLA. The GC/CM shall assure all Contractors who perform Covered Work will comply with this Agreement.

2.2 The Owner will provide project oversight and administration, and enforcement of this Agreement, through dedicated staff or a Third Party PLA Project Administrator, (herein referred to as "Administrator"), to be mutually agreed upon by the Owner and the Unions.

2.3 If the PLA is silent on any issue, the local Collective Bargaining Agreement(s) shall prevail; where there is a conflict, the terms and conditions of this Agreement shall supersede and override terms and conditions of any and all other national, area, or local collective bargaining agreements, except for all work performed under the NTL Articles of Agreement, the National Stack/Chimney Agreement, the National Cooling Tower Agreement, all instrument calibration work and loop checking shall be performed under the terms of the UA/IBEW Joint National Agreement for Instrument and Control Systems Technicians, and the National Agreement of the International Union of Elevator Constructors, with the exception of Article 8 (No Strike - No Lockout), Article 11 (Grievance Procedure), and Article 13 (Jurisdictional Disputes) of this Agreement, which shall apply to all such work.

With regard to off-site fabrication and assembly work, the Contractors shall be required to comply with applicable off-site fabrication or assembly provisions in applicable local collective bargaining agreements, in accordance with historical craft jurisdiction. Given the vital importance of the project to the region, the GC/CM and/or Contractor(s) and the Union(s) agree

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to discuss any circumstances affecting off-site fabrication contracting or purchases where an accommodation is sought making it necessary to depart from the applicable provisions of a local collective bargaining agreement. The Union(s) will not unreasonably withhold its consent to such accommodations and the Union agrees to install on-site any components fabricated pursuant to the terms of this Article and Section without limitation. The parties will make every effort to keep an open channel of communication to ensure that both parties are fully informed of the facts affecting the substance of this Section. This provision, although not limited to this provision, is subject to Article 11, Grievance Procedure.

2.4 It is understood that this is a self-contained, standalone Agreement and that by virtue of having become bound to this Agreement, neither the GC/CM nor the Contractors will be obligated to sign any other local, area, or national agreements.

2.5 Items specifically excluded from the scope of the Agreement include the following:

- (a) Work of non-manual employees, including but not limited to, superintendents, supervisors, assistant supervisors, staff engineer inspectors, quality control and quality assurance personnel, timekeepers, mail carriers, clerks, office workers, including messengers, guards, safety personnel, emergency medical and first aid technicians, and other professional, engineering, administrative, community relations or public affairs, environmental compliance, supervisory and management employees, and all suppliers and vendors who furnish and/or deliver furnished goods.
- (b) Artists performing work that is not subject to prevailing wage. All artwork and installation plans shall be reviewed by the Project Administrative Committee a minimum of sixty days (60) prior to installation.
- (c) Furniture, fixture, and equipment installers retained by the Owner.
- (d) Employers and their Employees controlled by the Owner.
- (e) Employees engaged in any work performed on or near, or leading to or into, the Project site by state, county, city, or other governmental bodies, their retained contractors, or by public utilities or their contractors, or by other public agencies or their contractors.
- (f) Employees engaged in maintenance on owned or leased equipment and on-site supervision of such work.
- (g) Employees engaged in warranty functions and warranty work, and on-site supervision of such work.
- (h) Startup, testing, and commissioning personnel employed by the Contractors or the Owner, laboratory for specialty testing or inspections not ordinarily done by the signatory Local Unions. Where startup, testing, commissioning, adjust and

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balance work is covered by signatory Local Union bargaining agreements, it shall be included within the scope of this Agreement.

- (i) All off-site manufacture and handling of materials, equipment, or machinery, except as otherwise noted in Section 2.3 of this Agreement.
- (j) Non-construction support services contracted by the Owner or the Contractors in connection with this Project.
- (k) All employees, sub-consultants, and agents of the design teams or any other consultants of the Owner for specialty testing, architectural/engineering design, and other professional services, not defined in RCW 39.12.

2.6 The Owner or the GC/CM or Contractor, as appropriate, has the absolute right to select any qualified bidder for the award of contracts on this Project without reference to the existence or non-existence of any contracts or collective bargaining agreements between such bidder and any party to this Agreement: provided that, except as provided herein, such bidder shall be willing, ready, and able to execute and comply with this Agreement should it be designated the successful bidder

2.7 It is understood by the parties that the Owner may at any time and in its sole discretion determine to add, modify or delete facilities. If facilities are added to the Project scope, they would be automatically covered by this Agreement.

2.8 The provisions of this Agreement shall apply to the construction of the named Project, notwithstanding the provisions of local, area and/or national agreements which may conflict or differ from the terms of this Agreement. Where a subject covered by the provisions of the Agreement is also covered by a conflicting provisions of a collective bargaining agreement, the provisions of this Agreement shall prevail.

2.9 This Agreement shall only be binding on the signatory parties hereto and shall not apply to their parents, affiliates or subsidiaries, or any other ventures of such party.

2.10 It is agreed that all contractors, who have been awarded contracts for work covered by this Agreement shall be required to accept and to be bound by the terms and conditions of this Agreement, and shall evidence their acceptance by the execution of a Letter of Assent, prior to the commencement of work. A signed copy of the Letter of Assent executed by the Contractor shall be immediately transmitted to the signatory Local Unions prior to the dispatch of employees to the job site.

2.11 The Unions agree that this Agreement does not have the effect of creating any joint employment status between or among the Owner, GC/CM, or any Contractor(s).

2.12 None of the provisions of this Agreement shall apply to the Owner and nothing contained herein shall be construed to prohibit the Owner or its employees from performing their routine work on the Project site. As areas and systems of the Project are inspected and construction tested and accepted by the Owner, the Agreement shall have no further force or effect on such

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items or areas, except when the Contractor is directed by the Owner to engage in repairs, modifications, checkout and/or warranty functions required by the construction contract.

2.13 It is understood that the Owner, at its sole option, may terminate, delay and/or suspend any or all portions of the Covered Work at any time.

2.14 All inspection of incoming shipments of equipment, apparatus, machinery and construction materials of every kind shall be performed at the sole discretion of the Owner, GC/CM or Contractors by persons of their choice

2.15 The Owner, GC/CM or Contractors shall have the right to have equipment, apparatus, machinery, and construction materials of every kind delivered to the jobsite by persons of their choice.

2.16 This Agreement does not apply to the co-development work at the Project, which is anticipated to consist of residential and/or commercial towers that will be north of Olive Street.

ARTICLE 3 - UNION RECOGNITION AND REPRESENTATION

3.1 The Contractor(s) recognize the signatory Unions as the sole and exclusive bargaining representatives of all craft employees within their respective jurisdictions working on the Project within the scope of this Agreement. This sub-section shall not alter the preexisting legal status of any bargaining relationship between any individual Contractor and signatory Union.

3.2 Authorized representatives of the Unions shall have reasonable access to the Project, provided they do not interfere with the work of employees, and further provided that such representatives fully comply with the visitor, safety and security rules and any environmental compliance requirements established for the Project, which shall be available for review by the Project Administrative Committee (as described in Article 10). It is understood that because of the scope of the Project and the type of work being undertaken, all visitors will be required to check in and may be limited to certain times or areas. They may also be required to be accompanied at all times while on the Project Site. However, in such circumstances, project workers shall be allowed to confer privately with their authorized Union representatives. The Contractors recognize the right of access set forth in the Section and such access will not be unreasonably withheld from an authorized representative of the Union.

3.3 The Unions signatory hereto shall have the right to designate a Steward for each Contractor signatory with that craft type, one (1) working journeyman as Steward for all related craft personnel, who shall be recognized as the Union's representative for a signatory hereto. Such designated Stewards shall be a qualified worker assigned to a crew and shall perform the work of their craft. Under no circumstances shall there be a non-working Steward on the Project.

3.4 The working Steward will be paid at the applicable prevailing wage rate for the job classification in which he/she is employed.

3.5 The Union may appoint a Steward for each shift, should multiple shifts be utilized.

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3.6 A Steward for each craft of the signatory Unions employed on the Project shall be permitted on the Project site at all times. They shall not be subjected to discrimination or discharge on account of proper Union activities. The Unions agree that such activities shall not unreasonably interfere with the Steward's work for the Contractor or its Sub-contractors.

3.7 It is recognized by the Contractor that the employee selected as Steward shall remain on the job as long as there is work within their craft for which they are qualified, willing and able to perform. The Contractor shall be notified in writing of the selection of each Steward. The Contractor shall be responsible for notifying the Unions prior to terminating a Steward as follows:

For Cause or Voluntary Quit As soon as possible after it becomes known to the Contractor either by telephone call or electronic means.

Reduction in Force 48 Hours prior written notice

3.8 The Steward may not cause or encourage work stoppage, and, if instigating such action, will be subject to discipline by the Contractor, and/or the Contractor's Sub-contractors, up to and including discharge or/and removal from the Project.

3.9 The Steward's duties shall not include hiring and termination, nor shall he/she cause any interference with work progress.

3.10 The Steward shall be given the option of working all reasonable overtime within his/her craft and shift providing he/she is qualified to perform the task assigned.

3.11 Personnel of the Owner may be working in close proximity to the construction activities. The Union agrees that the Union representatives, stewards and individual workers will not interfere with the Owner's personnel or with the personnel employed by any other employer not a party to this Agreement, provided that in the event a Union believes Owner personnel are performing work covered by this Agreement, the Owner/Administrator will be notified immediately in order to seek resolution.

ARTICLE 4 - HIRING PROCEDURES

4.1 The Contractor(s) shall have the right to determine the competency of all employees, the number of employees required and shall have the sole responsibility for selecting employees to be laid off, consistent with this Article.

4.2 For Local Unions now having a job referral system, the Contractors agree to comply with such system and it shall be used exclusively by the GC/CM and its subcontractors. Such job referral system will be operated in a non-discriminatory manner and in full compliance with federal, state, and local laws and regulations that require equal employment opportunities and non-discrimination, and referrals shall not be affected by obligations of union membership or the lack thereof. The Contractors may reject any referral for any lawful nondiscriminatory reason, provided they comply with Section 7.9 regarding reporting pay.

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4.3 Upon referral or dispatch from a Union, "turnaround" or refusal of any worker by the Contractors, requires a written explanation (which can be by email) containing specific information establishing the basis for turnaround from the Contractor, which shall be communicated from the Contractor to the Administrator (subject to the limitations of law) and affected Union within 48 hours.

4.4 In the event that Local Unions are unable to fill any request for employees within forty eight (48) hours, excluding Saturdays, Sundays and holidays, the Contractor may employ applicants from any other available source. The Contractor shall inform the Union of the name and social security number of any applicants hired from other sources and shall refer the applicant to the Local Union for dispatch to the Project prior to the commencement of work, and such applicant will have seven (7) days to join the Local Union

4.5 Failure of an employee to pay or tender fees or dues as required by this Article shall, upon written request of the Union in writing, result in immediate termination of such employee.

4.6 The parties recognize the Owner's commitment to provide opportunities to participate on the Project to business enterprises which may not have previously had a relationship with the Unions signatory to this PLA. To ensure that such enterprises will have an opportunity to employ their "core" employees on this Project, the parties agree that in those situations where any contractor, not a party to a current collective bargaining agreement with the signatory Union having jurisdiction over the affected work is a successful contractor, such Contractor, or their Sub-Contractor, may request by name, and the Local will honor, up to a maximum of three (3) designated core employees, provided that the Contractor first demonstrate that those persons possess the following qualifications:

- (a) Possess any license required by state or federal law for the project work to be performed;
- (b) Have worked a total of at least one thousand (1000) hours in the construction craft during the prior two (2) years;
- (c) On the Contractor's active payroll for at least sixty (60) out of one hundred eighty (180) calendar days prior to the contract award;
- (d) Have the ability to perform the work safely.
- (e) The Contractor shall provide detailed documentation at the pre-job conference identifying their Core Employee on the project and their scope of work and submit certified payroll data to verify that the worker meets the required definition, redacted as appropriate. The Administrator shall monitor Contractor compliance with this Core Employee definition.

4.7 Core employees who meet the aforementioned qualifications will be dispatched as follows:

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(a) The Contractor or Sub-contractors may request by name, and the Union will honor by referral, up to a maximum of three (3) designated core employees on an alternating basis with the Contractor or its Sub-contractors selecting first.

- Core Employee
- Union Referral
- Core Employee
- Union Referral
- Core Employee
- Union Referral

All subsequent referrals will be through the respective Union hiring hall.

(b) It is agreed that specific terms and conditions governing hiring and assignment of Union workers in supplement to small Contractors existing Core Employees (who would be displaced by the local referral procedure) may be negotiated jointly by the Contractor and applicable local Union.

(c) For the duration of the Contractor's work the ratio of "Core" employees to hiring hall referrals shall be maintained and when the Contractor's workforce is reduced, employees shall be reduced in the same ratio as was applied in the initial hiring.

(d) If the Administrator concludes that a Contractor is attempting to circumvent the hiring provisions of this PLA by misclassifying any of its employees as supervisors or foremen the Contractor shall forfeit their right to employ "Core" employees on this project.

(e) No "Core" employee covered by this PLA shall be required to join any Union as a condition of being employed on the Project; provided, however, that an employee who is a member of the referring Union at the time of the referral shall maintain that membership in good standing while employed under the PLA. All Core employees not currently a member of the appropriate Union signatory to this PLA shall, however, be required to pay a representational fee equal to 94% of the regular dues of the appropriate Union, for the period during which they are performing on-site work. The Contractors agree to deduct Union dues or representation fees, whichever is applicable, from the pay of any employee who executes a voluntary authorization for such deductions and to remit the dues or fees to the Union(s).

4.8 The selection of craft foremen and/or general foremen and the number of such foremen and/or general foremen required shall be entirely the responsibility of the Contractors. Craft foremen shall be designated working foremen at the request of the Contractors. Craft workers covered by this Agreement will, in the normal day-to-day operations, take their direction and supervision from their foreman.

4.9 Except as required by law, the Local Unions shall not knowingly refer an employee currently employed by any Contractor working under this PLA to any other Contractor.

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ARTICLE 5 - MANAGEMENT'S RIGHTS

5.1 Subject to the terms of this PLA, Contractors retain full and exclusive authority for management of their operations. Except as limited by this Agreement, Contractors shall direct their working forces at their prerogative, including, but not limited to hiring, promotion, transfer, lay-off or discharge for just cause; the selection of foremen and general foremen; the assignment and scheduling of work; the promulgation of reasonable work rules which shall be provided prior to being implemented to the Project Administrative Committee (as described in Article 10); and, the requirement of overtime work, the determination of when it will be worked, and the number and identity of employees engaged in such work. No rules, customs, or practices shall be permitted or observed which limit or restrict production or efficiency, or limit or restrict the working efforts of employees

5.2 The GC/CM and the Contractors may, in their sole discretion, utilize the most efficient method or techniques of construction, tools, or other labor saving devices. There shall be no limitations upon the choice of materials or design, nor shall there be any limit on production by workers or restrictions on the full use of tools or equipment. There shall be no restriction, other than may be required by safety regulations, on the number of employees assigned to any crew or to any service.

5.3 The foregoing enumeration of management rights shall not be deemed to exclude other functions not specifically set forth. The GC/CM and the Contractors therefore retain all legal rights not specifically covered by this Agreement

5.4 Except as otherwise expressly stated in this Agreement, there shall be no limitation or restriction upon the Owner, the GC/CM, or the Contractor's choice of materials or design, or, regardless of source or location, upon the full use and installation and utilization of equipment, machinery, package units, pre-casts, pre-fabricated, pre-finished, or pre-assembled materials, tools, or other labor saving devices. The Owner, the GC/CM or the Contractors may without restriction install or otherwise use materials, supplies, or equipment regardless of their source. The on-site installation or application of such items shall be generally performed by the craft having jurisdiction over such work. Provided, however, it is recognized that other personnel having special talents or qualifications may participate in the installation, check-off, or testing of specialized or unusual equipment. If there is any disagreement between a Contractor and the Union concerning the manner or implementation of such device or method of work, the implementation shall proceed as directed by the Contractor and the Union shall have the right to grieve and/or arbitrate the dispute as set forth in Article 11 of this Agreement.

ARTICLE 6 - WORK RULES

6.1 Employment begins and ends at the jobsite. All workers for this project shall be dispatched.

6.2 Employees shall be at their place of work at the designated starting time and shall remain at their place of work until the designated quitting time. Place of work shall mean gang boxes, change shacks or other designated tool storage areas or at assigned equipment. Employees shall

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remain on the Project and at their place of work through the work day except during breaks and lunch, at which time employees may access vending areas or snack trucks.

6.3 There shall be no limit on production by workers nor restrictions on the full use of tools or equipment. Craftsmen using tools shall perform any of the work of the trade and shall work under supervision of craft foremen. There shall be no restrictions on efficient use of manpower other than as may be required by safety regulations: provided, however, legitimate manning practices that are a part of national and/or local agreements shall be followed.

6.4 Security procedures for control of tools, equipment and materials are solely the responsibility of the GC/CM and Contractors. Employees having any company property or property of another employee in their possession without authorization are subject to immediate discharge. The Contractors will be responsible for the establishment of reasonable job security measures for the protection of personal company and client property.

6.5 Slowdowns, standby crews and featherbedding practices will not be tolerated.

6.6 The Owner or the Contractor(s) may establish reasonable Project rules, as they deem appropriate and not inconsistent with this Agreement, however, such rules shall be subject to review by the Project Administration Committee. These rules will be explained at the pre-job conference and posted at the Project site by the GC/CM and may be amended thereafter as necessary with notice to the Unions. Failure to observe these rules and regulations by any employee may be grounds for discipline, including discharge.

**ARTICLE 7- HOURS OF WORK, SHIFTS, SHIFTS,
OVERTIME, HOLIDAYS**

7.1 Hours of Work:

The standard workday shall consist of eight (8) hours of work scheduled between 6 a.m. and 6 p.m. with one-half hour designated as an unpaid period for lunch. The starting time may be different (staggered) on a crew basis. The standard workweek shall be five (5) days of work, Monday through Friday. Nothing herein shall be construed as guaranteeing any employee eight (8) hours of work per day or forty (40) hours of work per week. Notification of change in the hours of regular work schedule will be given to the Union in writing three (3) calendar days prior to implementation.

7.2 The GC/CM, per local collective bargaining agreement, may elect to work a four-ten-hour day schedule ("4/10") Monday through Thursday or Tuesday through Friday. Ten hours, between 6:00 a.m. and 6:00 p.m. shall constitute a workday on a 4/10-hour schedule. Any 4/10 schedule must be worked a minimum of one week.

7.3 Overtime:

All hours worked in excess of eight (8) hours per day or in excess of ten (10) hours daily on a four-ten-hour day schedule, forty (40) hours per week, or outside of regular

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shift, and Saturday and Sunday shall be paid in accordance with applicable State prevailing wage requirements. There shall be no pyramiding of overtime pay.

7.4 Holidays

Recognized holidays under this Agreement shall be celebrated on the date the holiday is celebrated by the State of Washington. Holidays shall be paid in accordance with the State prevailing wage code and recognized as follows:

1. New Year's Day (January 1)
2. Martin Luther King Jr Birthday (Third Monday of January)
3. Memorial Day (Last Monday of May)
4. Fourth of July
5. Labor Day (First Monday of September)
6. Thanksgiving (Fourth Thursday of November)
7. Post-Thanksgiving Friday (Friday immediately following Thanksgiving Day)
8. Christmas (December 25)

There are no paid holidays. If employees are required to work on a holiday, they shall receive the appropriate overtime rate as established by applicable State prevailing wage requirements.

7.5 Shifts:

Shift work may be performed at the option of the Contractor upon three working days prior written notice to the Unions and the PLA Administrator, and shall continue for a period of not less than five (5) working days. Saturdays and Sundays, if worked, may be used for establishing the five (5) day minimum work shift. If two shifts are worked, each shall consist of eight (8) hours of continuous work (or ten hours under a 4-10 schedule per 7.2) exclusive of a one-half (1/2) hour non-paid lunch period and shall be paid at the applicable craft rate of pay.

7.6 Meal Period:

Workers shall not be required to work more than five hours from the start of the shift without at least one-half hour unpaid uninterrupted break for lunch. This lunch period shall not begin earlier than three and one-half hours after the start of the shift. In the event that the Contractor establishes a ten-hour shift, the meal periods shall be at mid-shift. The worker meal periods may be staggered on an individual basis.

- (a) If a craft worker is required to work more than five hours before breaking for lunch, they shall be paid one-half hour at the applicable overtime rate and shall eat their lunch on company time.
- (b) An in lieu of payment equal to an hour of applicable overtime pay may be provided in lieu of lunch.
- (c) Craft workers required to work more than two hours after the end of an eight-hour shift and one hour after a ten-hour shift shall be furnished a meal and paid one-half hour at the applicable wage rate and every five hours thereafter a craft worker shall be

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- given time for a meal. Mealtime shall be paid at the applicable overtime rate and adequate lunch shall be provided by the Contractor at the job site.
- (d) An in lieu of payment equal to an hour of applicable overtime pay may be provided in lieu of a second lunch.

7.7 Rest Facilities:

Adequate sanitary and restroom facilities will be provided at the work location to allow workers to wash-up before and after their meal. The Contractor shall furnish warm, dry, lighted rooms of ample size equipped with heat for drying clothes and with benches and tables for use during meal periods. These are to be situated close to the site of the work and shall not be used for storage of materials or equipment.

7.8 Reporting to Work Pay:

Any worker who reports for work (except when given notification not to report to work 2 hours prior to shift), and for whom no work is provided, shall receive two (2) hours pay. Any worker who reports for work and for whom work is provided, shall be paid for actual time worked but not less than four (4) hours. If the job is shut down because of adverse conditions that prevent work and are beyond the control of the Contractor, workers shall be paid for actual time worked but not less than two (2) hours. Procedures for the Contractor to use to cancel work shall be agreed upon at the pre-job conference.

7.9 It will not be a violation of the Agreement when the GC/CM considers it necessary to shut down the project in whole or in part to avoid the possible loss of human life because of an emergency situation that could endanger the life and safety of an employee. In such cases, employees will be compensated only for the actual time worked. In the case of a situation described above whereby the GC/CM or its Contractor(s) requests employees to stand by, the employees will be compensated for the standby time as per the applicable prevailing wage determination

7.10 Sick Leave.

Employees of a Contractor who are covered by a collective bargaining agreement which contains a waiver of the provisions of the Seattle Paid Sick Time and Paid Safe Time Ordinance, Seattle Municipal Code Chapter 14.16, and their signatory employer, shall continue to be governed by such waiver.

ARTICLE 8 - NO STRIKE, NO LOCKOUT

8.1 During the term of this PLA there shall be no strikes, picketing, work stoppages, slowdowns or other disruptive activity for any reason by the Union, its applicable Local Union or by any employee, and there shall be no lockout by the Contractor. Failure of any Union, Local Union or employee to cross any picket line established at the Project site is a violation of this Article.

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8.2 The Union and its applicable Local Union shall not sanction, aid or abet, encourage or continue any work stoppage, strike, picketing or other disruptive activity at the Contractor's project site and shall undertake all reasonable means to prevent or to terminate any such activity. No employee shall engage in activities which violate this Article. Any employee who participates in or encourages any activities which interfere with the normal operation of the Project shall be subject to disciplinary action, including discharge, and if justifiably discharged for the above reasons, shall not be eligible for rehire on the Project for a period of not less than ninety (90) days.

8.3 Neither the Union nor its applicable Local Union shall be liable for acts of employees for whom it has no responsibility. The International Union General President or Presidents will immediately instruct, order and use the best efforts of his office to cause the Local Union or Unions to cease any violations of this Article. An International Union complying with this obligation shall not be liable for unauthorized acts of its Local Union.

The principal officer or officers of a Local Union will immediately instruct, order and use the best efforts of his office to cause the employees the Local Union represents to cease any violations of this Article. A Local Union complying with this obligation shall not be liable for unauthorized acts of employees it represents. The failure of the GC/CM or Contractor to exercise its right in any instance shall not be deemed a waiver of its right in any other instance.

8.4 In the event of any work stoppage, strike, picketing or other disruptive activity in violation of this Article, the GC/CM may suspend all or any portion of the Project work affected by such activity at the GC/CM's discretion and without penalty.

8.5 There shall be no strikes, picketing, work stoppages, slowdowns or other disruptive activity affecting the Project site during the duration of this PLA. Any Union or Local Union which initiates or participates in a work stoppage in violation of this Article, or which recognizes or supports the work stoppage of another Union or Local Union which is in violation of this Article, agrees as a remedy for said violation, to pay liquidated damages in accordance with Section 8.6 of this Article.

8.6 In lieu of, or in addition to, any other action at law or equity, any party may institute the following procedure when a breach of this Article is alleged, after the Union(s) or Local Union(s) has been notified of the fact.

- A. The permanent Arbitrator agreed upon to resolve disputes under this Article is Michael Cavanaugh, and the alternates are Tim Williams, Joe Duffy and Katie Whalen. In the event that the permanent Arbitrator is unavailable at any time (e.g. – unable to hear the dispute within 24 hours), the alternates shall be contacted to determine which is able to hear the case. Notice to the Arbitrator shall be by the most expeditious means available, with notice by facsimile, email or any other effective written means, to the party alleged to be in violation and the International Union President and/or Local Union.
- B. Upon receipt of said notice, the Arbitrator shall set and hold a hearing within twenty-four (24) hours if it is contended the violation still exists.
- C. The Arbitrator shall notify the parties by email, facsimile, or any other effective written means, of the place and time he or she has chosen for this hearing. Said hearing shall be

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completed in one session. A failure of any party or parties to attend said hearing shall not delay the hearing of evidence or issuance of an Award by the Arbitrator.

- D. The sole issue at the hearing shall be whether or not a violation of this Article has in fact occurred. The award shall be issued in writing within three (3) hours after the end of the hearing, and may be issued without an Opinion. If any party desires an Opinion, one shall be issued within fifteen (15) days, but its issuance shall not delay compliance with, or enforcement of the award. The Arbitrator may order cessation of the violation of this Article, and such Award shall be served on all parties by hand or registered mail upon issuance.
- E. Such award may be enforced by any court of competent jurisdiction upon the filing of this PLA and all other relevant documents referred to herein above in the following manner. Facsimile or expedited mail or personal service of the filing of such enforcement proceedings shall be given to the other party. In the proceeding to obtain a temporary order enforcing the Arbitrator's award as issued under Section 6 of this Article, all parties waive the right to a hearing and agree that such proceedings may be ex parte. Such agreement does not waive any party's right to participate in a hearing for a final order of enforcement. The Court's order or orders enforcing the Arbitrator's Award shall be served on all parties by hand or by delivery to their last known address by registered mail.
- F. Any rights created by statute or law governing arbitration proceedings inconsistent with the above procedure, or which interfere with compliance therewith, are hereby waived by parties to whom they accrue.
- G. The fees and expenses of the Arbitrator shall be borne by the party or parties found in violation, or in the event no violation is found, such fees and expenses shall be borne by the moving party.
- H. If the Arbitrator determines that a work stoppage has occurred in accordance with Section 8.6 d above, the party or parties found to be in violation shall pay as liquidated damages the following amounts: For the first shift in which the violation occurred, \$10,000; for the second shift, \$10,000; for the third shift, \$10,000; for each shift thereafter on which the craft has not returned to work, \$10,000 per shift. The specific damages in this Section shall be paid to the Owner. The Arbitrator shall retain jurisdiction to determine compliance with this Section and Article.

8.7 The procedures contained in Section 8.6 through 8.6 (h) shall be applicable to violations of this Article. Disputes alleging violation of any other provision of this PLA, including any underlying disputes alleged to be in justification, explanation or mitigation of any violation of this Article, shall be resolved under the grievance adjudication procedures of Article 11 Grievance Procedure.

8.8 The Owner, Administrator and GC/CM are each a party of interest in all proceedings arising under this Article and Articles 11 and 13 and shall be sent copies of all notifications required under these Articles and shall initiate or participate as a full party in any proceeding initiated under this Article.

ARTICLE 9 - WAGES AND FRINGE BENEFITS

9.1 All employees covered by this Agreement shall be classified in accordance with work performed and paid the hourly wage rates for those classifications in compliance with the

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applicable prevailing rates as required by Chapter 39.12 of the Revised Code of Washington, as amended. This requirement applies to laborers, workers and mechanics, employed by the GC/CM and its Contractors, or by any other person who performs a portion of the work contemplated by this Agreement and that is covered by the terms hereof.

9.2 The GC/CM and all Contractors will recognize the applicable State Prevailing Wage Rate Determinations as the minimum rates to be paid to all craft employees, including general foreman, foreman and apprentices during the life of the project. Further, Contractor(s) will recognize all changes of wages and fringes on the effective date(s) of the individual craft local collective bargaining agreement. It is further agreed that any retroactive increases will be recognized provided it is part of the negotiated settlement.

9.3 Wage rates become effective the first full payroll period following the effective date. Wages shall be paid weekly on a day and in a manner per the local collectively bargained agreement. Workers being discharged shall be paid at the time of dismissal. Employees who quit shall be paid on the next regular pay day by mail to their last known address unless such employee gives adequate notice to do otherwise.

9.4 In case any dispute arises as to what are the prevailing rates of wages for work of a similar nature and such dispute cannot be adjusted by the parties in interest, including labor and management representatives, the matter shall be referred for determination to the Director of the Department of Labor and Industries of the State of Washington.

9.5 The GC/CM and Contractor(s) adopt and agree to be bound by the written terms of the applicable legally established trust agreements, specifying the detailed basis on which payments are to be made into, and benefits paid out of, such Trust Funds.

9.6 If any Contractor is delinquent in any Trust Fund contributions required for work on the Project, the Union or the Trust Fund shall first make every effort to resolve the delinquency. After all efforts, have been exhausted, the Union or Trust Fund shall provide timely notification to the Owner, the Administrator and the Contractor(s), together with all documentary evidence of the delinquency endorsed by the Fund. Upon such notification, the Administrator, the GC/CM and the Contractor(s) will attempt to resolve the delinquency among its Contractor, the Union and the Fund. If the delinquency is not resolved within ten (10) days thereafter, the GC/CM and Contractor(s) shall withhold an amount to cover the delinquency from any retained funds otherwise due and owing to the Subcontractor and shall not release such withholding until the Subcontractor is in compliance. If the delinquent amounts are undisputed in whole or in part between the Trust Fund and the delinquent Contractor, the Contractor(s) shall issue a joint check to the Fund and the delinquent Contractor in the amount of the undisputed delinquency.

9.7 Delinquent Wage Payment/Wage Payment not compliant with Prevailing Wage and Benefits:

The parties recognize that the timely payment of prevailing wages is key to a stable and productive workforce. It is important that, in the unforeseen event of delinquent wage payments or payments below the prevailing wage, the parties will work to resolve the issues at the earliest possible time.

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- **Notification:** In the case of delinquent wage/benefit payment, whether by non-payment or bad check, the GC/CM, the Contractor, appropriate craft trades union, the Seattle King County Building Trades, the Pacific Northwest Regional Council of Carpenters, and the Administrator shall be notified immediately. These parties agree to meet within two (2) working days of notification to address the wage/benefit delinquency issues.
- **Joint Check:** Upon notification, arrangements shall commence for payroll/benefit payment to be covered by jointly issued check in the next payroll/benefit payment period. Extended utilization of the joint check protocol will be determined as part of the "Corrective Action Plan."
- **Corrective Action Plan:** In the event of multiple offenses by the same Contractor, the Administrator will prepare, after receiving input from the parties, a mutually agreed upon "corrective action plan" to avoid any further delinquency of wage/benefit payments. The corrective action plan shall include the time period for which the corrective action will remain in effect.

9.8 Penalty:

In the event a Contractor is delinquent in making payroll, the penalty provision in the applicable local bargaining agreement shall apply.

ARTICLE 10 - PROJECT ADMINISTRATION COMMITTEE

10.1 The parties to this PLA hereby recognize the necessity of cooperation and the elimination of disputes, misunderstandings or unfair practices on the part of any party, and to secure this end, it is hereby agreed that a Project Administrative Committee (PAC) shall be established to be comprised of the Contractor's representatives, the Unions party to the PLA, a representative of the Building Trades Council, the Pacific Northwest Regional Council of Carpenters, and the Owner's PLA Administrator who shall meet at the Building Trades Council's office (or as otherwise mutually agreed) according to a mutually agreeable monthly schedule. Representatives of Contractors, at every tier level, may also be required to attend PAC meetings, as determined by the PLA Administrator. The Owner's PLA Administrator shall serve as the chair of the PAC. The Unions shall at such meetings present facts concerning any violations of any part of the PLA by the Contractors or its Sub-contractors. Additionally, the Unions agree to notify the Owner's PLA Administrator upon discovery of a potential violation of this PLA. They shall also bring up any practice by the Contractors which in their opinion might lead to a misunderstanding or dispute between the parties. The Contractors shall bring in any complaints regarding failure of any employee or employees, or of the Unions to carry out any and all provisions of the PLA. The PLA Administrator, with input from the Unions and GC/CM, shall determine whether matters brought forward to the PAC shall be dealt with at the PAC or elsewhere.

10.2 Any agreement or resolutions reached pursuant to the preceding paragraph shall not supersede, alter, modify, amend, add to or subtract from this Agreement unless specifically expressed elsewhere in this Agreement. Prior to being effective any amendments or revisions to this PLA shall be in writing and signed by all the parties hereto. The Owner must be in agreement with and signatory to any changes.

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10.3 All parties' signatory to this PLA acknowledge the importance of attendance and active support of the PAC and agree to participate in the meetings as their responsibility on the Project requires.

10.4 The PAC shall meet as required, but not less than once each month, to review the operation of the PLA.

10.5 This PAC shall be convened within 48 hours on an emergency basis at the request of any party to the PLA.

10.6 The Owner and the PLA Administrator shall be a party in interest and shall be sent contemporaneous copies of all notifications required under this article, and at their option, shall initiate or participate as a full party in any proceeding initiated under this Article.

ARTICLE 11 - GRIEVANCE PROCEDURE

11.1 This PLA is intended to provide close cooperation between management and labor. Each of the Unions will assign a representative to this Project for the purpose of completing the construction of the Project economically, effieiently, continuously, and without interruptions, delays, or work stoppages.

11.2 The Contractors, Unions, and the employees, collectively and individually, realize the importance to all parties to maintain continuous and uninterrupted performance of the work of the Project, and agree to resolve disputes in accordance with the grievance arbitration provisions set forth in this Article.

11.3 Any question or dispute arising out of and during the term of this Project Agreement (other than trade jurisdictional disputes) shall be considered a grievance and subject to resolution under the following procedures:

- (a) Step 1. When any employee subject to this Agreement feels he or she is aggrieved by violating this Agreement, he or she, through his or her local union business representative shall, within ten (10) working days after the occurrence, or had knowledge of or should have known of the alleged violation, give written notice (email) to the work-site representative of the involved Contractor stating the provision(s) alleged to have been violated. The business representative of the local union and the work-site representative of the involved Contractor and the GC/CM shall meet and endeavor to adjust the matter within three (3) working days after timely notice has been given. The representative of the Contractor shall keep the meeting minutes and shall respond to the Union representative in writing (copying the Administrator) when the meeting concluded but not later than twenty-four (24) hours thereafter. If they fail to resolve the matter within the prescribed period, the grieving party may, within forty-eight (48) hours thereafter, pursue Step 2 of the Grievance Procedure, provided the grievance is reduced to writing, setting forth the relevant information concerning the alleged grievance, including a short description thereof, the date on which the grievance occurred, and the provision(s) of the Agreement alleged to have been violated. Should the Local Union(s) or the GC/CM or any

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Contractor have a dispute with the other party and, if after conferring, a settlement is not reached within three (3) working days, the dispute may be reduced to writing and step 2 as outlined for the adjustment of an employee complaint.

- (b) Step 2. The International Union Representative or designee and the involved Contractor shall meet within seven (7) working days of the referral of a dispute to this second step to arrive at a satisfactory settlement. Meeting minutes shall be kept by the Contractor. If the parties fail to agree, the dispute may be appealed in writing in accordance with the provisions of Step 3 within seven (7) working days thereafter.
- (c) Step 3. If the grievance has been submitted but not adjusted under Step 2, either party may request in writing, within seven (7) working days, that the grievance be submitted to a mutually agreed upon Arbitrator. The Contractor and the involved Union shall attempt mutually to select an arbitrator, but if they cannot do so, they shall request the American Arbitration Association to provide them a list of arbitrators from which they Arbitrator shall be selected. The rules of the American Arbitration Association shall govern the conduct of the arbitration hearing. The decision of the Arbitrator shall be final and binding on all parties. The fee and expenses of such Arbitration shall be borne equally by the Contractor and the involved Local Union(s).
- (d) Failure of the grieving party to adhere to the time limits established shall render the grievance null and void. The time limits established herein may be extended only by written consent of the parties involved at the step where the extension is agreed upon. The Arbitrator shall have the authority to decide only issues presented to him or her, and he or she shall not have authority to change, amend, add to or detract from any of the provisions of this Agreement.

11.4 The Administrator and GC/CM shall be notified of all actions at Steps 2 and 3 and shall, upon their request, be permitted to participate in all proceedings at these steps.

ARTICLE 12- PRE-JOB CONFERENCES

12.1 Each Contractor will be required to attend a pre-job conference with the Seattle Building and Construction Trades Council and the applicable Union(s) a minimum of two weeks prior to the commencement of work, including any additions or expansion of the original scopes on the Project. The purpose of this pre-job conference is to promote communication and provide the parties an opportunity to review the work prior to the start of construction, exchange contact information, and make trade assignments. All contractors will be required to arrange such a Pre-Job Conference through the Administrator. The Contractor(s) will submit to the Administrator in advance of the Pre-Job Conference the following completed documents: Proposed Trade Assignment, Core Employee List and New Employee Report. The Administrator will chair the meeting and the CM /GC will be advised in advance of all such conferences and shall participate. At this meeting, competing Unions (if any) may present evidence in support of their jurisdictional claims to the Contractor. Any Union in disagreement with the proposed assignment shall notify the Contractor of its position in writing, with a copy to the Administrator,

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within seven (7) calendar days thereafter. Within seven (7) calendar days after the period allowed for the Union notice of disagreement with the Contractor's proposed assignments, but prior to the commencement of any work, the Contractor shall make final written work assignments to the Unions with a copy to the Administrator.

12.2 After attending a Pre-Job Conference once, a Contractor winning a second, and separate contract on the Project, or an addition or expansion of the original contract that does not materially change the type of work performed by the Contractor, may submit a waiver request to the Administrator, waiving the requirement to attend future Pre-Job Conferences when they are performing the same scope of work. The Administrator and Unions will mutually agree upon granting any such waivers.

12.3 The GC/CM and any of its sub-contractors who fail to hold such a pre-job conference prior to commencement of work shall be considered in violation of the PLA. The appropriate Building Trades Council and/or Pacific Northwest Regional Council of Carpenters representative shall immediately advise the Administrator of any failure to comply with this Article, and the Administrator will take corrective action.

ARTICLE 13 - JURISDICTIONAL DISPUTES

13.1 The assignment of work will be solely the responsibility of the Contractor performing the work involved; and such work assignments will be in accordance with the Plan for the Settlement of Jurisdictional Disputes in the Construction Industry (the Plan) or any successor Plan.

13.2 All jurisdictional disputes on this Project, between or among Building and Construction Trades Unions, the Pacific Northwest Regional Council of Carpenters, parties to this PLA, shall be settled and adjusted according to the present Plan established by the Building and Construction Trades Department or any other plan or method of procedure that may be adopted in the future by the Building and Construction Trades Department. Decisions rendered shall be final, binding and conclusive on the Contractors and Unions parties to this PLA.

13.3 All jurisdictional disputes shall be resolved without the occurrence of any strike, work stoppage, or slow-down of any nature, and the Contractors assignment shall be adhered to until the dispute is resolved. Individuals violating this section shall be subject to immediate discharge.

13.4 Each Contractor will be required to conduct a pre-job conference, see Article 12.

13.5 Any award or resolution made pursuant to this procedure, shall be final and binding on the disputing Unions and the involved Contractor under this PLA only, and may be enforced in any court of competent jurisdiction in accordance with the Plan. Such award or resolution shall not establish a precedent on any construction work not covered by this PLA. In all disputes under this Article, the Contractor shall be considered a party in interest.

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ARTICLE 14 - SUBCONTRACTING

14.1 The GC/CM and Contractor(s) agrees that neither will subcontract any Covered Work to be done on the Project (as provided in Article 2) except to a person, firm or corporation who is, or agrees to become party to, this PLA.

14.2 If a Building Trades Union that traditionally represents construction employees in the geographic area of the Project chooses not to become signatory to this Agreement, the Owner and/or GC/CM, and signatory Unions shall utilize one or both of the following options to ensure that work may be claimed by the non-signatory Union ("claimed work") is completed without disrupting the Project:

- (a) The signatory Unions will provide the GC/CM and Contractor(s) who become signatory to this Agreement with the appropriate workforce to perform the claimed work. The wage and fringe benefit package for such work shall be in the current wages and benefits established and maintained in the appropriate Collective Bargaining Agreement.
- (b) The GC/CM and Contractor(s) may utilize any subcontractor to perform claimed work, except that if such subcontractor is party to an agreement with the non-signatory Union, such Union must agree in writing to abide by Article 13, Jurisdictional Disputes, and Article 8, No Strike, No Lockout, for the sub-contractor to be awarded work under this Agreement. Such sub-contractor may utilize its existing workforce and wage and benefit package. Such sub-contractors shall be required to agree in writing to be bound to and abide by this Article, Article 8, No Strike, No Lockout, and Article 13, Jurisdictional Disputes. No other provision shall apply to such contractors unless required by the GC/CM.

ARTICLE 15 - SAFETY AND HEALTH

15.1 The GC/CM, Contractors and the Unions signatory to this Agreement will form a Joint Labor/Management Safety Committee that shall be incorporated into the Project Administrative Committee. At this meeting reports will be given on safety programs instituted by the PLA Administrator, the GC/CM and the individual contractors on the Project site and to discuss and advise such parties of the PLA with regard to recommended safety programs and procedures in order to maintain the highest level of occupational safety possible on the Project Site.

15.2 It shall be the responsibility of the GC/CM and each Contractor(s), to ensure safe working conditions, and employee compliance with all applicable provisions of State and Federal laws and regulations including the Occupational Safety and Health Act of 1970 as amended. It is understood that employees have an individual obligation to use diligent care to perform their work in a safe manner and to protect themselves and the property of the Contractor and the Owner/

15.3 The GC/CM and Contractor(s) shall provide a convenient and sanitary supply of drinking water, cooled in the summer months, and sanitary drinking cups.

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15.4 The GC/CM and Contractor(s) shall provide adequate sanitary toilet facilities, water and clean up facilities for the employees. Dry shacks for breaks and employee's personal equipment storage shall be per the local CBAs.

15.5 Violators of the safety program will be subject to termination for cause and may be rehired after 90 days.

15.6 All required safety equipment shall be provided by the GC/CM and Contractor(s).

ARTICLE 16 - APPRENTICESHIP UTILIZATION

16.1 The parties recognize the need to maintain continuing support of apprenticeship programs designed to develop adequate numbers of competent workers in the construction industry. Such programs enable workers to enter the labor pool fully qualified to earn a family wage on construction jobs. The Unions agree to support and to enhance such programs to provide training and job opportunities to these new work force entrants. The Contractors will employ apprentices in their respective craft to perform work customarily performed by the craft in which they are registered and within their capabilities.

16.2 Apprenticeship Requirements and Utilization Goals

Consistent with any restrictions contained in applicable state or federal law and regulations, including those governing equal employment opportunity, prevailing wage and apprenticeship requirements and limitations, the parties will jointly use good faith efforts to meet or exceed the following project requirement for apprenticeship utilization:

(a) The Contractors at all tier levels shall be required to make good faith efforts to achieve a requirement of 15% of all labor hours ~~per craft~~ to be performed by apprentices on their particular contract or subcontract.

(b) "Good faith efforts" means the strongest possible efforts that can reasonably be made to meet or exceed the established apprentice goals.

(c) The parties commit to working collaboratively and using their best efforts to achieve the diversity represented in the community working on this Project. The Unions commit to refer female and minority candidates to meet or exceed the goals stated below, as per Contractor request. The parties will regularly meet in an effort to find ways to increase the number of females and minorities on the Project, and to mutually determine whether goals can be adjusted higher. The following identifies the diversity goals for this project:

Minorities	15%
Women	8%

These goals may be increased during the Project as additional opportunities become available.

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16.3 Development of a Skilled Construction Workforce

The Owner supports the development of a skilled construction workforce through appropriate apprenticeship and training organizations, particularly for minorities, women and others facing significant employment barriers. The Owner also supports pre-apprenticeship and other programs such as Apprenticeship and Nontraditional Employment for Women and Men (ANEW), YouthBuild, PACE, Pacific Northwest Ironworkers Pre-Apprentice, and Helmets to Hard Hats in their goals to assist workers with particular barriers or other any program that is recognized by Washington State and is mutually agreed to by the parties at a future date. The parties further agree to explore other means of meeting and exceeding the above goals, expand pathways to livable wage jobs and careers in the construction industry for community residents, through apprenticeship programs.

16.4 Apprentice Utilization Plan

The Contractors shall prepare and submit a plan for participation of SAC-registered apprentices to the Owner at the pre-job conference. The Contractor shall estimate the total contract labor hours to be worked on the construction contract awarded to it and shall establish the anticipated apprenticeship participation by craft and hours. Diversity goals for the use of apprentices are identified in Section 16.2 (c) of this Article.

ARTICLE 17 - PREFERRED ENTRY

The parties agree to construct and expand pathways to livable wage jobs and careers in the construction industry for community residents through collaborative workforce development systems involving community-based training providers and Union-based apprenticeship programs. The purpose of such a program is to facilitate a workforce reflective of the diversity of the Region's population. The details of any potential Preferred Entry program will be agreed upon by the parties prior to the start of the program. The parties are supportive of preferred entry for apprentices that come out of federally certified and tribal programs.

ARTICLE 18 - HELMETS TO HARD HATS

18.1 The Contractors and the Unions recognize a desire to facilitate the entry into the building and construction trades of veterans interested in careers in the building and construction industry. The Contractors and Unions agree to utilize the services of the Center for Military Recruitment, Assessment and Veterans Employment ("Center") and the Center's "Helmets to Hardhats" program to serve as a resource for preliminary orientation, assessment of construction aptitude, referral to apprenticeship programs or hiring halls, counseling and mentoring, support network, employment opportunities and other needs as identified by the parties.

18.2 The Unions and Contractors agree to coordinate with the Center to create and maintain an integrated database of veterans interested in working on this Project and of apprenticeship and employment opportunities for this Project. To the extent permitted by law, the Unions will give credit to such veterans for bona fide, provable past experience.

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ARTICLE 19 - PARKING

19.1 The parties recognize the potential impact on traffic in downtown Seattle if all of the workers needed on the Project drive to work. As such, the parties are committed to finding ways to facilitate employees using mass transit and other such alternatives, including reduced cost transit passes. The parties commit to work together in good faith to find such alternatives, and make Project workers aware of them.

19.2 Employee parking shall be designated by the Owner in a Convention Center Parking Garage which shall be made available at no cost for workers who are employed at the jobsite. It is understood that there may be days each year when the garage is full due to a large event at the Convention Center. The Owner or GC/CM shall provide advance notification whenever it knows the garage will be full. When the garage is full, and the Owner is unable to provide an alternative arrangement within three City blocks or 1200 feet at no cost to employees, the Owner/Contractor will reimburse alternative parking up to a maximum reimbursement of \$20.00, or as otherwise provided in a local collective bargaining agreement.

ARTICLE 20 - DRUG-FREE WORKPLACE

20.1 The parties recognize the importance of a drug-free workplace. Each Contractor will be required to comply with the provisions of their applicable local bargaining agreement. Any Contractor not party to a local bargaining agreement will be required to have a program that is acceptable to the GC/CM.

20.2 The Owner and the GC/CM reserve the right to utilize a Project-wide drug and alcohol testing program, and require all Contractors and their employees to comply with a site-wide Drug and Alcohol program. Any such program shall be reviewed with the Unions and mutually agreed upon prior to implementation.

20.3 Any employee who reports for work under the influence of alcoholic beverages or non-prescribed drugs, or who reports to the jobsite with alcoholic beverages or non-prescribed drugs, shall be subject to immediate termination and/or removal from the project. If that occurs, the Contractor shall notify the affected Union in writing (which may be by email) within 24 hours.

ARTICLE 21- GENERAL SAVINGS CLAUSE

21.1 If any article or provisions of this Agreement shall be declared invalid, inoperative or unenforceable by any competent authority of the executive, legislative, judicial or administrative branch of the Federal or any State government (including such authorities as established within Project enabling legislation referred to under Article I within this Agreement). The Contractors and the Union shall suspend the operation of such article or provision during the period of its invalidity and shall substitute, by mutual consent in its place and seal an article or provision which will meet the objections to its validity and which will be in accord with the intent and purpose of the article or provision in question.

If any article or provision of this Agreement shall be held invalid, inoperative or unenforceable by operation of law or by any of the above mentioned tribunals of competent jurisdiction, the

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remainder of this agreement or the applications of such article or provision to persons or circumstances other than those as to which it has been held invalid, inoperative or unenforceable shall not be affected thereby.


ARTICLE 22- DURATION OF THE AGREEMENT

22.1 This Agreement shall become effective on April 21 2017, and shall continue in effect until the Project is completed.

22.2 Turnover. Construction of any phase, portion, section or segment of the projects shall be deemed complete when such phase, portion, section or segments has been turned over to the Owner by the Contractor, and the Owner has accepted such phase, portion, section or segment. As areas and systems of the projects are inspected and construction tested and/or approved by the GC/CM and accepted by the Owner or third parties with the approval of the Owner, the Agreement shall have no further force or effect on such items or areas, except when the Contractor is directed by the GC/CM.

Signature Pages:

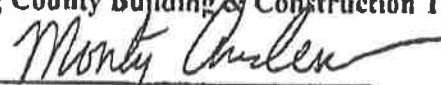
WASHINGTON STATE CONVENTION CENTER PUBLIC FACILITIES DISTRICT

Signature: 
Frank Finneran
Chairman of the Board

Date: 4/21/2017

UNIONS:

Seattle/King County Building & Construction Trades Council, AFL-CIO

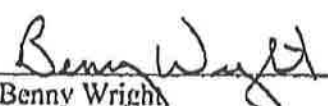
Signature: 
Monty Anderson
Executive Secretary

Date: _____

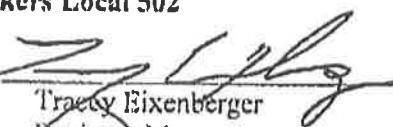
Heat & Frost Insulators & Allied Workers
Local 7

Signature: 
Todd Mitchell
Business Manager


BAC PNW ADC

Signature: 
Benny Wright
Union Representative


Boilermakers Local 502

Signature: 
Tracy Eixenberger
Business Manager

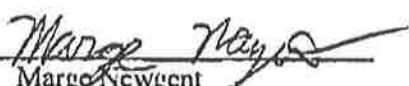
Cement Masons & Plasterers Local 528

Signature: 
Eric Coffey
Business Manager


IBEW Local 46

Signature: 
Jim Tosh
Business Manager

Operating Engineers Local 302

Signature: 
Marge Newgent
Business Representative

Elevator Constructors Local 19

Signature: 
Patrick Strafer
Business Manager

IUPAT District Council 5

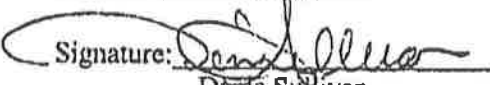
Signature: 
Denis Sullivan
Business Manager

Exhibit O
Construction Agreement

Exhibit O
Construction Agreement

ATTACHMENT A

**LETTER OF ASSENT
&
PROPOSED TRADE ASSIGNMENTS
FOR THE
WASHINGTON STATE CONVENTION CENTER ADDITION PROJECT**

The undersigned, as a Contractor(s) or Subcontractor(s) on a Contract which is part of the Washington State Convention Center Addition Project, for and in consideration of the award of a Contract to perform work on said Project, and in further consideration of the mutual promises made in the Project Labor Agreement, a copy of which was received and is acknowledged, hereby:

- (1) On behalf of itself and all its employees, accepts and agrees to be bound by the terms and conditions of the Project Labor Agreement, together with any and all amendments and supplements now existing or which are later made thereto, and understands that any act of non-compliance with all such terms and conditions will subject the non-complying Contractor or employee(s) to being prohibited from the Project Site until full compliance is obtained.
- (2) Certifies that it has no commitments or agreements which would preclude its full compliance with the terms and conditions of said Project Labor Agreement.
- (3) Agrees to secure from any Contractor(s) (as defined in said Project Labor Agreement) which is or becomes a Subcontractor(s) (of any tier), a duly executed Letter of Assent in form identical to this document prior to commencement of any work.

Dated: _____

(Contractor/Company Name)

(Signature of Authorized Representative)

(Print Name and Title)

(General/General Contractor)

(Phone Number)

(Subcontractor To, If Applicable)

(Billing Address)

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ATTACHMENT B

Letter of Understanding

Between

Teamsters Local Union No. 174

And

Washington State Convention Center Public Facilities District

Whereas: The work of truck drivers is unique in the execution of project labor agreements in that much of the work is performed off-site, and;

Whereas: It is the intent of the parties through this LOU to address owner-operators performing truck driving work in the execution and within the scope of this PLA:

Therefore: It is agreed that classifications of work performed by truck drivers that are within the jurisdiction of Teamsters Local Union No. 174 ("Local 174") and performed in the execution and within the scope of this PLA, is to be paid the current prevailing wage subject to the following additions and stipulations:

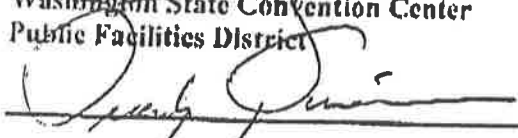
1. Article 2, applies with full force and effect to all Contractors and Subcontractors of whatever tier who have been awarded contracts related to the work of truck drivers that is performed in the execution and within the scope of this PLA. Thus, all such Contractors and Subcontractors must, among other things, comply with the requirement set forth in Article 4, all truck drivers who perform work within the scope of this agreement shall be dispatched by Teamsters Local 174, except insofar as limited by the other provisions of Article 4.
2. The term "employee," as used in Article 4, is defined for the purposes of this Letter of Understanding to include any person who is performing the work of a truck driver in the execution and within the scope of this project, unless modified by the terms of this LOU.
3. At the request of any Contractor or Subcontractor, that Contractor or Subcontractor may choose to utilize as persons performing the work of truck drivers on this project persons who are already in possession of or who wish to provide their own vehicles (hereafter, "owner-operators"). Use of owner-operators is governed by the following rules:
 - 3.1. Pursuant to the requirements of Article 4, owner-operators working on the project must be dispatched by Teamsters Local 174.
 - 3.2. Owner-operators will receive a compensation package equivalent to the prevailing wage that is applicable to all other employees who are dispatched by Local 174 to the Contractor or Subcontractor regardless of tier. Owner-operators will also be reimbursed at the rates

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Construction Agreement

established by Local 174 and approved by the Owner for the use of owner-operator vehicles. Such rates shall be based on and shall not exceed the area standard for fair market value for the use of the equipment.

- 3.3. For the purposes of this Letter of Understanding, an owner-operator is defined by WAC 296-127-026.
- 4. For the purpose of clarification of this document, if an owner-operator should expand his/her business opportunities and acquire employees working on the project, apprenticeship goals contained in the PLA will apply.

Washington State Convention Center
Public Facilities District



Date 4/21/2017

Teamsters Local 174

Carl R. Hoveler

Date April 18, 2017

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ATTACHMENT C

**MEMORANDUM OF UNDERSTANDING
CEMENT MASON PROVISIONS**

Because of the unique nature of the Cement Mason work, the following provisions have been included for application to Cement Masons only:

- A. **Start of Pour:** The Cement Mason crew must be on the job at the start of the shift in which finishing will be required and assist with the pour on slab work or work preparatory to concrete finishing coming within the jurisdiction of the Cement Masons.
- B. **Multiple Shift Operation:** There will be no shift operation on slab work except by mutual agreement. Shifts may be established when considered necessary by the employer.
- C. **Shifts and Hours of Work:** If a four/ten hour shift is established at the straight time rate, any Cement Mason dispatched for a one day pour will be paid at the eight (8) hour straight time plus two (2) hour overtime rate.
- D. **Reporting and Minimum Hours Pay:**
 - 1. Employees reporting for work and for whom no work is provided, except when given notification not to report to work, shall receive four (4) hours at the regular straight-time hourly rate.
 - 2. When the shift is started, four (4) hours shall be allowed. If the second half is started, then a whole shift shall be allowed, unless an employee leaves of his own volition or is discharged for cause. In such event, he shall be paid for actual time worked.

For: OPCMIA Local 528

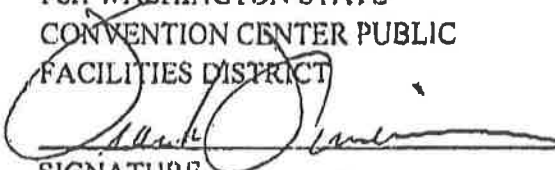


 SIGNATURE
 Eric Coffelt

 PRINT NAME
 4-18-17

 DATE

For: WASHINGTON STATE
CONVENTION CENTER PUBLIC
FACILITIES DISTRICT



 SIGNATURE
 FRANK FINVER

 PRINT NAME
 4/21/2017

 DATE

Exhibit G – Reservation Of Rights To Implement Contractor Insurance Program

1. Pursuant to the terms of the Agreement, Contractor and all Subcontractors are required to obtain and maintain certain insurance coverages. Owner hereby reserves the right to modify the insurance requirements set forth in the Agreement, including but not limited to reserving the right to implement a traditional Contractor insurance program (“CIP”) for the Project.
2. In the event a CIP is implemented, the CIP shall maintain the following additional insurance coverage during the Work, and as required by statute but not for less than six (6) years after Final Acceptance. Contractor shall also maintain these coverages during the performance of any corrective Work required by Section 5.16.
 - (1) General liability on the ISO CG 00 01 04 13 Form or its equivalent that will include:
 - a. Completed operations/products liability
 - b. Premises Liability
 - c. Advertising Injury & Personal Injury
 - d. Explosion, collapse, and underground
 - (2) Umbrella / Excess Liability

3. **COVERAGE LIMITS**

The coverage limits shall be as follows¹⁵:

- A. Limits of Liability shall not be less than \$1,000,000 Combined Single Limit for Bodily Injury and Property Damage (other than Automobile Liability) Each Occurrence; Personal Injury and Advertising Liability Each Occurrence.
- B. No less than \$2,000,000 Annual Aggregate for Products and Completed Operations Liability.
- C. \$100,000,000 Umbrella or Excess Liability for the General Contractor
\$50,000,000 Umbrella or Excess Liability for contracts \$20,000,000 and up
\$25,000,000 Umbrella or Excess Liability for contracts between \$10,000,000 - \$20,000,000
\$10,000,000 Umbrella or Excess Liability for contracts between \$5,000,000 - \$10,000,000
\$2,000,000 Umbrella or Excess Liability for contracts under \$5,000,000
4. All other contractual requirements and provisions apply, including Additional Insured Status, waiver of subrogation and other coverage requirements.

¹⁵ Lower limits may be acceptable in Owner’s sole discretion upon Owner’s advance written approval.

General Conditions for GC/CM Agreement

for

Washington State Convention Center

Addition Project

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- Exhibit 1 – Approved GC/CM Personnel Relocation Policy.
- Exhibit 2 – Unauthorized and Non-Reimbursable Expenses, and Travel Reimbursement.

GENERAL CONDITIONS FOR GC/CM AGREEMENT

PART 1 GENERAL PROVISIONS

1.01 DEFINITIONS

- A. “Application for Payment” means a written request submitted by GC/CM to A/E for payment of Work completed in accordance with the Contract Documents and approved Schedule of Values, supported by such substantiating data as Owner or A/E may require.
- B. “A/E” means LMN Architects and its representative designated for this Project, representing Owner within the limits of its delegated authority.
- C. “AGC/WSDOT” means Associated General Contractors Washington State Department of Transportation”.
- D. “Change Order” means a written instrument signed by Owner and GC/CM stating their agreement upon all of the following: (1) a change in the Work; (2) the amount of the adjustment in the Contract Sum, if any, and (3) the extent of the adjustment in the Contract Time, if any.
- E. “Claim” means GC/CM’s exclusive remedy for resolving disputes with Owner regarding the terms of a Change Order or a request for equitable adjustment, as more fully set forth in Part 8.
- F. “Contract Award Amount” is the sum of the Base Bid and any accepted Alternates.
- G. “Contract Documents” means the Advertisement for Bids, Instructions for Bidders, completed Form of Proposal, General Conditions, Modifications to the General Conditions, Supplemental Conditions, GC/CM Agreement, other Special Forms, Drawings and Specifications, and all addenda and modifications thereof.
- H. “Contract Sum” is the total amount payable by Owner to GC/CM for performance of the Work in accordance with the Contract Documents, other than sales tax amounts. The Contract Sum includes the Total Contract Cost plus the sums payable for Preconstruction Services.
- I. “Contract Time” is the number of calendar days allotted in the Contract Documents for achieving Substantial Completion of the Work.
- J. GC/CM “Drawings” are the graphic and pictorial portions of the Contract Documents showing the design, location, and dimensions of the Work, and may include plans, elevations, sections, details, schedules, and diagrams.
- K. “Field Order” is a directive from Owner or Owner’s Development Manager to GC/CM regarding performance of the Work.
- L. “Final Acceptance” means the written acceptance issued to GC/CM by Owner after GC/CM has completed the requirements of the Contract Documents. GC/CM
- M. “Final Completion” means that the Work is fully and finally completed in accordance with the Contract Documents.
- N. “Force Majeure” means those acts entitling GC/CM to request an equitable adjustment in the Contract Time, as more fully set forth in Section 3.05A.
- O. “GC/CM” means the person or entity who has agreed with Owner to perform the Work in accordance with the Contract Documents.
- P. “Hazardous Substances” is defined in Section 5.07(E)(1).

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- Q. "Outreach Plan" is defined in Section 10.10.
- R. "Notice" means a written notice that has been delivered in accordance with Section 8.10 of the GC/CM Agreement.
- S. "Notice to Proceed" means a notice from Owner to GC/CM that defines the date on which the Contract Time begins to run.
- T. "Person" means a corporation, partnership, business association of any kind, trust, company, or individual.
- U. "Prior Occupancy" means Owner's taking possession of and use of all or parts of the Project before Substantial Completion.
- V. "Progress Schedule" means a schedule of the Work, in a form satisfactory to Owner, as further set forth in Section 3.02.
- W. "Project" means the total construction of which the Work performed in accordance with the Contract Documents may be the whole or a part and that may include construction by Owner or by separate contractors.
- X. "Project Manual" means the volume usually assembled for the Work that may include the bidding requirements, sample forms, and other Contract Documents.
- Y. "Project Record" means the separate set of Drawings and Specifications as further described in Section 4.02A.
- Z. "Schedule of Values" means a written breakdown allocating the total Contract Sum to each principle category of Work, in such detail as requested by Owner.
- AA. "Shop Drawings" is defined in Section 4.03.
- BB. "Specifications" are that portion of the Contract Documents consisting of the written requirements for materials, equipment, construction systems, standards and workmanship for the Work, and performance of related services.
- CC. "Subcontract" means a contract entered into by a Subcontractor for the purpose of obtaining supplies, materials, equipment, or services of any kind for or in connection with the Work.
- DD. "Subcontractor" means any person, other than GC/CM, who agrees to furnish or furnishes any supplies, materials, equipment, or services of any kind in connection with the Work.
- EE. "Substantial Completion" means that stage in the progress of the Work where Owner has full and unrestricted use and benefit of the facilities for the purpose intended, as more fully set forth in Section 6.07.¹

¹ The Owner may issue limited Notice(s) to Proceed with limited scopes of Work as set forth in and authorized by Owner prior to Owner and GC/CM executing a change order incorporating the MACC/Total Contract Cost for the entire Addition Project and the substantial completion date therefor, in the change order(s) authorizing such limited scopes of Work. Prior to the substantial completion date for entire Addition Project being so established, GC/CM shall promptly and continuously proceed to carry out the limited scopes of Work as set forth in and authorized by Owner in change order(s) authorizing such limited scopes of Work. If and when the substantial completion date for the entire Addition Project is so established, it shall be incorporated herein by Owner and GC/CM agreeing upon and executing a change order incorporating the MACC/Total Contract Cost for the entire Addition Project and the

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FF. "Work" means the construction and services required by the Contract Documents, and includes, but is not limited to, labor, materials, supplies, equipment, services, permits, and manufacture and fabrication of components, performed, furnished, or provided in accordance with the Contract Documents. The Work shall consist of all items set forth in, required by or reasonably inferable from the Contract Documents in order to fully complete the Work, including all demolition and construction services, supervision, administration, coordination, tests, inspections (except as otherwise provided in the Contract Documents), clean up, repairs and other items that are necessary and appropriate, together with the additional, collateral and incidental work and services required for completion of the Work as set forth in the Contract Documents.

1.02 ORDER OF PRECEDENCE

Any conflict or inconsistency in the Contract Documents shall be resolved by giving the documents precedence in the following order:

1. Change Orders to signed GC/CM Agreement.
2. Signed GC/CM Agreement.
3. Supplemental Conditions to GC/CM General Conditions.
4. Modifications to GC/CM General Conditions.
5. GC/CM General Conditions.
6. OCIP Manual (once OCIP is in place).
7. Specifications—provisions in Division 1 shall take precedence over provisions of any other Division.
8. Drawings—in case of conflict within the Drawings, large scale drawings shall take precedence over small scale drawings.
9. Signed and Completed Form of Proposal.
10. GC/CM's Final Proposal for GC/CM Services.
11. GC/CM's Statement of Qualifications for GC/CM Services.

Notwithstanding the foregoing to the contrary, in the event of inconsistencies within or between parts of the Contract Documents, GC/CM shall provide the better quality or greater quantity of Work and comply with the more stringent requirements. The preceding sentence shall not relieve GC/CM from its obligations under Sections 4.01(C) and (D).

1.03 EXECUTION AND INTENT

GC/CM makes the following representations to Owner:

1. The Contract Sum is reasonable compensation for the Work and the Contract Time is adequate for the performance of the Work, as represented by the Contract Documents;

substantial completion date therefor, and said substantial completion date for the entire Addition Project shall also apply to any and all limited scopes of Work as set forth in and authorized by Owner in the change order(s) authorizing such limited scopes of Work.

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Construction Agreement

GENERAL CONDITIONS FOR GC/CM AGREEMENT

2. GC/CM has carefully reviewed the Contract Documents, visited and examined the Project site, become familiar with the local conditions in which the Work is to be performed, and satisfied itself as to the nature, location, character, quality and quantity of the Work, the labor, materials, equipment, goods, supplies, work, services and other items to be furnished and all other requirements of the Contract Documents, as well as the surface and subsurface conditions and other matters that may be encountered at the Project site or affect performance of the Work or the cost or difficulty thereof;
3. GC/CM is financially solvent, able to pay its debts as they mature, and possesses sufficient working capital to complete the Work and perform GC/CM's obligations required by the Contract Documents; and
4. GC/CM is able to furnish the plant, tools, materials, supplies, equipment and labor required to complete the Work and perform the obligations required by the Contract Documents and has sufficient experience and competence to do so.

1.04 GENERAL

- A. References in these General Conditions to sections are references to sections in these General Conditions unless otherwise specified.
- B. Terms used in these General Conditions and not defined in these General Conditions shall have the meanings given them in the other Contract Documents.

PART 2 INSURANCE AND BONDS

2.01 GC/CM'S LIABILITY INSURANCE

The Project is anticipated to be insured under an Owner Controlled Insurance Program ("OCIP") at the start of construction Work at the project site. (Owner reserves the right to require a traditional contractor insurance program at some point in the future if an OCIP is not purchased). The coverages listed below will apply to all scopes of work authorized by Owner prior to Owner and GC/CM executing a change order incorporating the MACC/Total Contract Cost for the entire Addition Project, and shall be incorporated in the change order(s) authorizing such limited scopes of Work before the OCIP is in place. After the OCIP is in place, the General and Umbrella/Excess Liability coverages listed below will apply only to offsite operations or work not covered under the OCIP.

- A. GC/CM shall maintain the following insurance coverage during the Work, and after Final Acceptance for the entire periods of applicable statutes of repose and limitation. GC/CM shall also maintain these coverages during the performance of any corrective Work required by Section 5.16.

1. General liability on the ISO CG 00 01 Form or its equivalent that will include:

- a. Completed operations/products liability
- b. Premises Liability
- c. Advertising Injury & Personal Injury
- d. Explosion, collapse, and underground

Coverage will include but not limited to:

- a. Blanket contractual liability sufficient in scope to cover the Contractor's Indemnity obligations
- b. Broad Form CGL, including property damage including completed operations

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GENERAL CONDITIONS FOR GC/CM AGREEMENT

- c. Severability of interests
 - d. Underground explosion and collapse coverage
 - e. Personal injury liability
 - f. Incidental medical malpractice
 - g. Specific waiver of subrogation
 - h. Additional insured endorsement using form CG 20 10 11/85 or equivalent
 - i. Cross Liability Endorsement
 - j. Independent Contractors Protective Liability
2. Automobile liability
 3. Workers' Compensation as required by statute and Employers Liability (WA Stop Gap)
 4. Umbrella / Excess Liability

Coverage will include but not be limited to:

 - a. Additional insured endorsement
 - b. Pay on behalf of wording
 - c. Concurrency of effective dates with primary
 - d. Blanket contractual liability
 - e. Punitive damages coverages (where not prohibited by law)
 - f. Aggregates apply where applicable in Primary
 - g. Care, custody and control – follow form Primary
 - h. Drop down feature
 5. Contractors Pollution Liability including coverage for asbestos abatement, if applicable, including transportation and non-owned disposal sites on a blanket basis.
 6. Contractors' Professional Liability including contingent Professional Liability for subconsultants.
- B. All insurance coverages shall protect against claims for damages for bodily injury or death, as well as claims for property damage and personal injury that may arise from operations in connection with the Work, whether such operations are by GC/CM or any Subcontractor.
- C. All insurance coverages shall: (i) name the Washington State Convention Center, and its officers, officials, employees, representatives and agents, and Pine Street Group L.L.C. and its members, agents and employees, and any others as designated by Owner as additional insured with respect to liability arising out of work performed by GC/CM, (ii) be endorsed to be primary and non-contributory with any insurance, self-insurance or deductible maintained by the Washington State Convention Center or any of its officers, officials, employees, representatives or agents and Pine Street Group L.L.C. and its members, agents and

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employees, (iii) provide a waiver of any rights of subrogation against the Washington State Convention Center and its officers, officials, employees, representatives and agents and Pine Street Group L.L.C. and its members, agents and employees, and (iv) contain a severability of interest provision in favor of the Washington State Convention Center and its officers, officials, employees, representatives and agents and Pine Street Group L.L.C. and its members, agents and employees. All insurance certificates and endorsements shall evidence full compliance with the above enumerated requirements. GC/CM shall also include all Subcontractors as insureds under its policies or shall furnish separate certificates of insurance and policy endorsements for each Subcontractor as evidence that Subcontractor has complied with all insurance requirements of these General Conditions with the exception of Pollution Liability and Contractors' Professional Liability. If coverage is provided on a Claims Made basis, the policy will have a retroactive date which is prior to the start of Work.

D. **Joint Ventures.** If Contractor is a joint venture or partnership, the joint venture or partnership will be a named insured under each policy specified.

2.02 COVERAGE LIMITS²

The coverage limits shall be as follows:

- A. Limits of Liability shall not be less than \$1,000,000 Combined Single Limit for Bodily Injury and Property Damage (other than Automobile Liability) Each Occurrence; Personal Injury and Advertising Liability Each Occurrence.
- B. No less than \$2,000,000 Annual Aggregate including Products and Completed Operations Liability.
- C. Workers Compensation Statutory; \$1,000,000 Employer's Liability (WA Stop Gap).
- D. \$1,000,000 Combined Single Limit for Automobile Bodily Injury and Property Damage Liability, Each Accident or Loss.
- E. \$50,000,000 Umbrella or Excess Liability for the General GC/CM
\$25,000,000 Umbrella or Excess Liability for subcontracts \$10,000,000 and up
\$10,000,000 Umbrella or Excess Liability for subcontracts between \$5,000,000 - \$10,000,000
\$2,000,000 Umbrella or Excess Liability for subcontracts under \$5,000,000
Limits outlined above may be lower prior to inception of the OCIP subject to approval by Owner
- F. \$10,000,000 Pollution Liability per occurrence/claim with a maximum deductible or self-insured retention of \$250,000 per occurrence/claim; limits may be lower prior to inception of the OCIP subject to approval by Owner.
- G. \$5,000,000 Contractors' Professional Liability with a maximum deductible or self-insured retention of \$250,000 per claim.

² The Owner may issue limited Notice(s) to Proceed with limited scopes of Work as set forth in and authorized by Owner prior to Owner and GC/CM executing a change order incorporating the MACC/Total Contract Cost for the entire Addition Project, and with respect thereto prior to the start of physical construction Work at the Project site, the change order(s) authorizing such limited scopes of Work may contain modifications to these coverage limits (which modifications shall only apply until the first to occur of Owner and GC/CM executing a change order incorporating the MACC/Total Contract Cost for the entire Addition Project or the start of physical construction Work at the Project site).

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2.03 INSURANCE COVERAGE CERTIFICATES AND GENERAL INSURANCE PROVISIONS

- A. Prior to commencement of the Work, GC/CM shall furnish Owner completed certificate(s) of insurance.³ The certificate(s) shall be signed by a person authorized by that insurer to bind coverage on its behalf. If requested by Owner, GC/CM shall also provide copies of the insurance policies. The form of all policies shall be subject to Owner's review and approval, which will not be unreasonably withheld. Review of GC/CM's insurance by Owner shall not relieve or decrease the liability of GC/CM. Companies writing the insurance to be obtained by this part shall be licensed to do business under Chapter 48 RCW or comply with the Surplus Lines Law of the State of Washington and shall have an A.M. Best Rating of A VII or better.
- B. All insurance certificates shall specifically require forty five (45) calendar days' prior written notice to Owner of cancellation, except ten (10) calendar days' notice for non-payment of premium.
- C. GC/CM shall include in its bid the cost of all insurance (GC/CM's non-OCIP insurance costs) and of any bond costs (GC/CM's performance and payment bond costs) required to complete the base bid work and accepted alternates.⁴ Deductibles, self-insured retention and aggregate limitations must be disclosed to and approved by Owner. No such deductible, self-insured retention or aggregate limitation shall limit or affect GC/CM's liability to Owner, and GC/CM shall be liable to Owner therefor. Insurance carriers providing insurance in accordance with the Contract Documents shall be acceptable to Owner, and its A.M. Best rating shall be indicated on the insurance certificates. If at any time, any of the policies become unsatisfactory to Owner as to form or substance or if a company issuing any such policy shall be or become unsatisfactory to Owner, GC/CM shall, upon receipt of notice to that effect from Owner, promptly obtain a new policy placed with insurers acceptable to Owner and shall submit the same to Owner with the appropriate certificates and endorsements for approval.
- D. The certificate holder shall be:
Washington State Convention Center
800 Convention Place
Seattle, WA 98101
- E. GC/CM shall not commence the Work unless it has obtained the insurance required by this Contract or allow any Subcontractor to commence the Work until such Subcontractor has obtained insurance similar to that required of GC/CM under these General Conditions.

2.04 PAYMENT AND PERFORMANCE BONDS

GC/CM shall invoice and be reimbursed for the bond premium during the payment period when the premium is paid.⁵ GC/CM shall deliver to Owner on signing this Contract, four (4) signed original copies of the bonds, each sealed by the surety, each bearing a valid power of attorney for the surety's attorney-in-fact. The form of such bonds and the surety shall be subject to the approval of Owner.

³ For limited scopes of Work as set forth in and authorized by Owner prior to Owner and GC/CM executing a change order incorporating the MACC/Total Contract Cost for the entire Addition Project, GC/CM need only provide those certificate(s) of insurance relative to those limited scopes of Work.

⁴ The total of the GC/CM's Percent Fee, which is 4.26% of the MACC, includes GC/CM's non-OCIP insurance costs and GC/CM's performance and payment bond costs.

⁵ As a further clarification, despite GC/CM being entitled to be reimbursed for the bond premium during the payment period when the premium is paid, the total of the GC/CM's Percent Fee, which includes GC/CM's non-OCIP insurance costs and GC/CM's performance and payment bond costs, may not exceed 4.26% of the MACC.

2.05 ADDITIONAL BOND SECURITY

GC/CM shall promptly furnish additional security required to protect Owner and persons supplying labor or materials required by the Contract Documents if:

- A. Owner has a reasonable objection to the surety; or
- B. Any surety fails to furnish reports on its financial condition if required by Owner.

2.06 BUILDER'S RISK

A. Unless otherwise provided, Owner shall purchase and maintain, in a company or companies lawfully authorized to do business in the jurisdiction in which the Project is located, property insurance written on a builder's risk "all-risk" or equivalent policy form in the amount of the initial Contract Sum, plus value of subsequent Contract Modifications and cost of materials supplied or installed by others, comprising total value for the entire Project at the site on a replacement cost basis without optional deductibles. Such 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 as provided in Section 6.09 or until no person or entity other than Owner has an insurable interest in the property required by this Section A to be covered, whichever is later. This insurance shall include interests of Owner, GC/CM, Subcontractors and Sub-subcontractors in the Project.

A.1.1 Property insurance shall be on an "all-risk" or equivalent policy form and shall include, without limitation, insurance against the perils of fire (with extended coverage) and physical loss or damage including, without duplication of coverage, theft, vandalism, malicious mischief, collapse, earthquake, flood, windstorm, falsework, testing and startup, temporary buildings and debris removal including demolition occasioned by enforcement of any applicable legal requirements, and shall cover reasonable compensation for A/E's and GC/CM's services and expenses required as a result of such insured loss. (Coverage for earthquake and flood limits to be selected at Owner's discretion, not less than \$50,000,000 as available in market. Earthquake and flood deductibles to be selected at Owner's discretion.)

A.1.2 If Owner does not intend to purchase such property insurance required by the Contract and with all of the coverages in the amount described above, Owner shall so inform GC/CM in writing prior to commencement of the Work. GC/CM may then effect insurance that will protect the interests of GC/CM, Subcontractors and Sub-subcontractors in the Work, and by appropriate Change Order the cost thereof shall be charged to Owner. If GC/CM is damaged by the failure or neglect of Owner to purchase or maintain insurance as described above, without so notifying GC/CM in writing, then Owner shall bear all reasonable costs properly attributable thereto.

A.1.3 This property insurance shall cover portions of the Work stored off the site, and also portions of the Work in transit.

A.1.4 Partial occupancy or use in accordance with Section 6.08 shall not commence until the insurance company or companies providing property insurance have consented to such partial occupancy or use by endorsement or otherwise. Owner and GC/CM shall take reasonable steps to obtain consent of the insurance company or companies and shall, without mutual written consent, take no action with respect to partial occupancy or use that would cause cancellation, lapse or reduction of insurance.

2.07 DEDUCTIBLES

A. If the OCIP includes deductibles, Owner shall pay costs not covered because of such deductibles; provided however, that any deductibles and/or uninsured losses under said insurance shall be for the account of the GC/GM and/or the Subcontractors, or their agents and employees, should the loss be attributable to their sole negligence, acts, errors or omissions, or operations, and shall not be a reimbursable expense. In the event the loss is attributable to the GC/CM and/or the Subcontractors, or their agents or employees,

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concurrent negligence, acts, errors or omissions, or operations, the deductibles and/or uninsured losses shall be for the account of the GC/CM and/or the Subcontractor, or their agents or employees, only to the extent of their negligence, acts, errors or omissions, or operations, and to such extent shall not be a reimbursable expense. If the property insurance includes deductibles, Owner shall pay costs not covered because of such deductibles; provided however, that any deductibles and/or uninsured losses under said insurance shall be for the account of the GC/GM and/or the Subcontractors, or their agents and employees, should the loss be attributable to their sole operations, and shall not be a reimbursable expense. In the event the loss is attributable to the GC/CM and/or the Subcontractors, or their agents or employees, concurrent operations, the deductibles and/or uninsured losses shall be for the account of the GC/CM and/or the Subcontractor, or their agents or employees, only to the extent of their operations, and to such extent shall not be a reimbursable expense.

- A.1 If loss is attributable to the GC/CM and/or the Subcontractors, the GC/CM and/or the Subcontractors shall be responsible, at their own expense, for payment of a deductible as follows:

\$25,000 per claim for the first claim;
\$50,000 per claim for the second claim; and
\$100,000 per claim for each claim after the first two claims.

The GC/CM and/or the Subcontractors deductible applies per occurrence for each loss payable under the OCIP or property insurance that is attributable to the GC/CM and/or Subcontractors, or their agents and employees negligence, acts, errors or omissions, or operations.

2.08 BOILER AND MACHINERY INSURANCE

Owner shall purchase and maintain boiler and machinery insurance required by the Contract Documents or by law, which shall specifically cover such insured objects during installation and until final acceptance by Owner; this insurance shall include interests of Owner, GC/CM, Subcontractors and Sub-subcontractors in the Work, and Owner and GC/CM shall be named insureds.

2.09 LOSS OF USE INSURANCE

- A. Owner, at Owner's option, may purchase and maintain such insurance as will insure Owner against loss of use of Owner's property due to fire or other hazards, however caused. Owner waives all rights of action against GC/CM for loss of use of Owner's property, including consequential losses due to fire or other hazards however caused.

- A.1 If GC/CM requests in writing that insurance for risks other than those described herein or other special causes of loss be included in the property insurance policy, Owner shall, if possible, include such insurance, and the cost thereof shall be charged to GC/CM by appropriate Change Order.

- A.2 If during the Project construction period Owner insures properties, real or personal or both, at or adjacent to the site by property insurance under policies separate from those insuring the Project, or if after final payment property insurance is to be provided on the completed Project through a policy or policies other than those insuring the Project during the construction period, Owner shall waive all rights in accordance with the terms of Section 2.10 below for damages caused by fire or other causes of loss covered by this separate property insurance. All separate policies shall provide this waiver of subrogation by endorsement or otherwise.

- A.3 Before an exposure to loss may occur, Owner shall file with GC/CM a copy of each policy that includes insurance coverages required by this Section A. Each policy shall contain all generally applicable conditions, definitions, exclusions and endorsements related to this Project. Each policy shall contain a provision that the policy will not be canceled or allowed to expire, and that its limits will not be reduced, until at least thirty (30) calendar days' prior written notice has been given to GC/CM.

2.10 WAIVERS OF SUBROGATION

- A. Owner and GC/CM waive all rights against (1) each other and any of their subcontractors, sub-subcontractors, agents and employees, each of the other, and (2) A/E, A/E's consultants, separate contractors described in Section 5.19 or 5.20, if any, and any of their subcontractors, sub-subcontractors, agents and employees, for damages caused by fire or other causes of loss to the extent covered by property insurance obtained pursuant to this Section A or other property insurance applicable to the Work, except such rights as they have to proceeds of such insurance held by Owner as fiduciary. Owner or GC/CM, as appropriate, shall require of A/E, A/E's consultants, separate contractors described in Section 5.19 or 5.20, if any, and the subcontractors, sub-subcontractors, agents and employees of any of them, by appropriate agreements, written where legally required for validity, similar waivers each in favor of other parties enumerated herein. The policies shall provide such waivers of subrogation by endorsement or otherwise. A waiver of subrogation shall be effective as to a person or entity even though that person or entity would otherwise have a duty of indemnification, contractual or otherwise, did not pay the insurance premium directly or indirectly, and whether or not the person or entity had an insurable interest in the property damaged.
- A.1 A loss insured under Owner's property insurance shall be adjusted by Owner as fiduciary and made payable to Owner as fiduciary for the insureds, as their interests may appear, subject to requirements of any applicable mortgagee clause and of Section A. GC/CM shall pay Subcontractors their just shares of insurance proceeds received by GC/CM, and by appropriate agreements, written where legally required for validity, shall require Subcontractors to make payments to their Sub-subcontractors in similar manner.
- A.2 If required in writing by a party in interest, Owner as fiduciary shall, upon occurrence of an insured loss, give bond for proper performance of Owner's duties. The cost of required bonds shall be charged against proceeds received as fiduciary. Owner shall deposit in a separate account proceeds so received, which Owner shall distribute in accordance with such agreement as the parties in interest may reach, or as determined in accordance with the method of binding dispute resolution selected in the Agreement between Owner and GC/CM. If after such loss no other special agreement is made and unless Owner terminates the Contract for convenience, replacement of damaged property shall be performed by GC/CM after notification of a Change in the Work in accordance with Part 7.
- A.3 Owner as fiduciary shall have power to adjust and settle a loss with insurers unless one of the parties in interest shall object in writing within five (5) calendar days after occurrence of loss to Owner's exercise of this power; if such objection is made, the dispute shall be resolved in the manner selected by Owner and GC/CM as the method of binding dispute resolution in the Agreement. If Owner and GC/CM have selected arbitration as the method of binding dispute resolution, Owner as fiduciary shall make settlement with insurers or, in the case of a dispute over distribution of insurance proceeds, in accordance with the directions of the arbitrators.

PART 3 TIME AND SCHEDULE

3.01 PROGRESS AND COMPLETION

Time is of the essence for all aspects of GC/CM's performance, and GC/CM shall diligently prosecute the Work, with adequate forces, achieve Substantial Completion within the Contract Time, and achieve Final Completion within a reasonable period thereafter.

3.02 CONSTRUCTION SCHEDULE

- A. GC/CM shall, at the time the MACC is established, submit a Progress Schedule. The Progress Schedule shall show the sequence in which GC/CM proposes to perform the entire Work, and the dates on which GC/CM plans to start and finish major portions of the Work, including dates for shop drawings and other submittals. The preliminary Progress Schedule shall outline the activities of the first ninety (90) days in

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detail in a format approved by Owner. GC/CM shall, notwithstanding any language in the Contract Documents to the contrary, provide Owner all scheduling information reasonably requested by Owner.

- B. The Progress Schedule shall be in the form of a critical path method analysis and in a format approved by Owner.
- C. Review by Owner of GC/CM's schedule does not constitute an approval or acceptance of GC/CM's construction means, methods, or sequencing, or its ability to complete the Work within the Contract Time. GC/CM shall revise and resubmit its schedule, as necessary. Owner may withhold a portion of progress payments until a Progress Schedule has been submitted that meets the requirements of this section.
- D. GC/CM shall utilize and comply with the Progress Schedule. On a weekly basis, or as otherwise directed by Owner, GC/CM shall submit an updated Progress Schedule to Owner indicating actual progress. Each Progress Schedule shall also include a list of the specific upcoming Work activities that are scheduled to occur for a minimum of the next ten (10) days. If, in the opinion of Owner, GC/CM is not in conformance with the Progress Schedule for reasons other than acts of Force Majeure as identified in Section 3.05, GC/CM shall take such steps as are necessary to bring the actual completion dates of its work activities into conformance with the Progress Schedule, and if directed by Owner, GC/CM shall submit a corrective action plan and revise the Progress Schedule to reconcile with the actual progress of the Work. Such plan shall, if so directed by Owner, include, without limitation, employing such additional forces or paying such additional overtime wages as may be required in order to assure that the progress of the Work is in compliance with the Progress Schedule and assure timely Substantial Completion of the Work.
- E. GC/CM shall promptly notify Owner in writing of any actual or anticipated event that is delaying or could delay achievement of any milestone or performance of any critical path activity of the Work. GC/CM shall indicate the expected duration of the delay, the anticipated effect of the delay on the Progress Schedule, and the action being or to be taken to correct the problem. Provision of such notice does not relieve GC/CM of its obligation to complete the Work within the Contract Time.

3.03 OWNER'S RIGHT TO SUSPEND THE WORK FOR CONVENIENCE

- A. Owner may, in its absolute discretion, order GC/CM, in writing, to suspend all or any part of the Work for up to ninety (90) calendar days, or for such longer period as mutually agreed.
- B. Upon receipt of a written notice suspending the Work, GC/CM shall immediately comply with its terms and take all reasonable steps to minimize the incurrence of cost of performance directly attributable to such suspension. Within a period up to ninety (90) calendar days after the notice is delivered to GC/CM, or within any extension of that period to which the parties shall have agreed, Owner shall either:
 - 1. Cancel the written notice suspending the Work; or
 - 2. Terminate the Work covered by the notice as provided in the termination provisions of Part 9.
- C. If a written notice suspending the Work is cancelled or the period of the notice or any extension thereof expires, GC/CM shall resume Work.
- D. GC/CM shall be entitled to an equitable adjustment in the Contract Time, or Contract Sum, or both, for increases in the time or cost of performance directly attributable to such suspension, provided GC/CM complies with all requirements set forth in Part 7.

3.04 OWNER'S RIGHT TO STOP THE WORK FOR CAUSE OR CARRY OUT THE WORK

- A. If GC/CM fails or refuses to perform an obligation in accordance with the Contract Documents, Owner may order GC/CM, in writing, to stop Work, or any portion thereof, until satisfactory corrective action has been taken, and GC/CM shall comply with the directions of Owner as set forth in such notice. The right of

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Owner to stop the Work shall not give rise to a duty on the part of Owner to exercise this right for the benefit of GC/CM or any other person or entity.

- B. If GC/CM defaults or neglects to carry out the Work in accordance with the Contract Documents and fails within a seven (7) calendar day period after receipt of written notice from Owner to commence and continue correction of such default or neglect with diligence and promptness, Owner may after such seven (7) calendar day period, without prejudice to other remedies the Owner may have, correct such deficiencies. In such case Owner may offset from payments then or thereafter due GC/CM the reasonable cost of correcting such deficiencies, including without limitation Owner's expenses and compensation for A/E's additional services made necessary by such default, neglect or failure. If payments then or thereafter due GC/CM are not sufficient to cover such amounts, GC/CM shall pay the difference to Owner.

3.05 DELAY

- A. Any delay in or failure of performance by Owner or GC/CM, other than the payment of money, shall not constitute a default hereunder if and to the extent the cause for such delay or failure of performance was unforeseeable and beyond the control of the party ("Force Majeure"). Acts of Force Majeure are as follows:
1. Acts of God or the public enemy;
 2. Fire or other casualty for which neither GC/CM nor any Subcontractor is responsible;
 3. Quarantine or epidemic;
 4. Strike or defensive lockout;
 5. Unusually severe weather conditions that could not have been reasonably anticipated.
- B. GC/CM shall be entitled to an equitable adjustment in the Contract Time for changes in the time of performance directly attributable to an act of Force Majeure, provided it makes a request for equitable adjustment according to Section 7.03 and the extension of time shall not exceed the delay actually caused by the Force Majeure that could not be avoided by GC/CM in the exercise of reasonable diligence. GC/CM shall not be entitled to an adjustment in the Contract Sum resulting from an act of Force Majeure for the first thirty (30) cumulative days of Force Majeure delays experienced during the Project. Should the cumulative number of days of Force Majeure delay for the Project exceed thirty days, GC/CM may request an equitable adjustment in the Contract Sum specifically limited to cost impacts arising from and directly connected to the additional Force Majeure delay period after the 30-day cumulative threshold is surpassed.
- C. GC/CM shall be entitled to an equitable adjustment in Contract Time, and may be entitled to an equitable adjustment in Contract Sum, if the cost or time of GC/CM's performance is changed due to the fault or negligence of Owner or anyone for whose acts Owner is responsible, provided GC/CM makes a request according to Sections 7.02 and 7.03.
- D. GC/CM shall not be entitled to an adjustment in Contract Time or in the Contract Sum for any delay or failure of performance to the extent such delay or failure was caused by GC/CM, a Subcontractor of any tier or anyone for whose acts GC/CM is responsible.
- E. To the extent any delay or failure of performance was concurrently caused by Owner and GC/CM, GC/CM shall be entitled to an adjustment in the Contract Time for that portion of the delay or failure of performance that was concurrently caused, provided it makes a request for equitable adjustment according to Sections 7.03, but shall not be entitled to an adjustment in Contract Sum.
- F. GC/CM shall make all reasonable efforts to prevent and mitigate the effects of any delay, whether occasioned by an act of Force Majeure or otherwise.

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3.06 NOTICE TO OWNER OF LABOR DISPUTES

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

3.07 DAMAGES FOR FAILURE TO ACHIEVE TIMELY COMPLETION

- A. Liquidated Damages For Delay
 - 1. Timely performance and completion of the Work is essential to Owner and time limits stated in the Contract Documents are of the essence. Owner will incur serious and substantial damages if Substantial Completion of the Work does not occur within the Contract Time. However, it would be difficult if not impossible to determine the exact amount of such damages. Consequently, provisions for liquidated damages for delay are included in the Contract Documents.
 - 2. The liquidated damage amounts set forth in the Contract Documents will be assessed not as a penalty, but as liquidated damages for breach of the Contract Documents. This amount is fixed and agreed upon by and between GC/CM and Owner because of the impracticability and extreme difficulty of fixing and ascertaining the actual damages Owner would in such event sustain. This amount shall be construed as the actual amount of damages sustained by Owner, and may be retained by Owner and deducted from periodic payments to GC/CM. This amount does not include Owner's attorneys' fees.
 - 3. Assessment of liquidated damages for delay shall not release GC/CM from any other obligations or liabilities pursuant to the Contract Documents.

PART 4 SPECIFICATIONS, DRAWINGS, AND OTHER DOCUMENTS

4.01 DISCREPANCIES AND CONTRACT DOCUMENT REVIEW

- A. The intent of the Specifications and Drawings is to describe a complete Project to be constructed in accordance with the Contract Documents. GC/CM shall furnish all labor, materials, equipment, tools, transportation, permits, and supplies, and perform the Work required in accordance with the Drawings Specifications, and other provisions of the Contract Documents.
- B. The Contract Documents are complementary. What is required by one part of the Contract Documents shall be binding as if required by all. Anything mentioned in the Specifications and not shown on the Drawings, or shown on the Drawings and not mentioned in the Specifications, shall be of like effect as if shown or mentioned in both.
- C. GC/CM shall carefully study and compare the Contract Documents with each other and with information furnished by Owner. If, during the performance of the Work, GC/CM finds a conflict, error, inconsistency, or omission in the Contract Documents, it shall promptly and before proceeding with the Work affected thereby, report such conflict, error, inconsistency, or omission to A/E and Owner in writing.
- D. GC/CM shall do no Work without applicable Drawings, Specifications, written modifications, or Shop Drawings where required, unless specifically instructed by Owner in writing to proceed without applicable Drawings, Specifications, written modifications or Shop Drawings. If GC/CM performs any construction activity, and it knows or reasonably should have known that any of the Contract Documents contain a

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conflict, error, inconsistency, or omission, GC/CM shall be responsible for the performance and shall bear the cost for its correction.

- E. GC/CM shall provide any work or materials the provision of which is reasonably inferable and is within the scope of the Contract Documents even if the Contract Documents do not mention them specifically.
- F. Questions regarding interpretation of the requirements of the Contract Documents shall be referred to Development Manager.

4.02 PROJECT RECORD

- A. GC/CM shall legibly mark electronically on a separate set of the Drawings and Specifications all actual construction, including depths of foundations, horizontal and vertical locations of internal and underground utilities and appurtenances referenced to permanent visible and accessible surface improvements, field changes of dimensions and details and other changes as more fully indicated in Division 1. This separate set of Drawings and Specifications shall be the "Project Record".
- B. The Project Record shall be maintained on the project site throughout the construction and shall be clearly labeled "PROJECT RECORD". The Project Record shall be updated at least weekly noting all changes and shall be available to Owner at all times.
- C. GC/CM shall submit the completed and finalized Project Record to Development Manager prior to Final Completion.

4.03 SHOP DRAWINGS

- A. "Shop Drawings" means documents and other information required to be submitted to A/E or consultants by GC/CM pursuant to the Contract Documents, showing in detail: the proposed fabrication and assembly of structural elements; and the installation (i.e. form, fit, and attachment details) of materials and equipment. Shop Drawings include, but are not limited to, drawings, diagrams, layouts, schematics, descriptive literature, illustrations, schedules, performance and test data, samples, and similar materials furnished by GC/CM to explain in detail specific portions of the Work required by the Contract Documents. For materials and equipment to be incorporated into the Work, GC/CM submittal shall include the name of the manufacturer, the model number, and other information concerning the performance, capacity, nature, and rating of the item. When directed, GC/CM shall submit all samples at its own expense. Owner may duplicate, use, and disclose Shop Drawings provided in accordance with the Contract Documents.
- B. GC/CM shall coordinate all Shop Drawings, and review them for accuracy, completeness, and compliance with the Contract Documents and shall indicate its approval thereon as evidence of such coordination and review. Where required by law, Shop Drawings shall be stamped by an appropriate professional licensed by the state of Washington. Shop Drawings submitted to A/E and consultants without evidence of GC/CM's approval shall be returned for resubmission. GC/CM shall review, approve, and submit Shop Drawings with reasonable promptness and in such sequence as to cause no delay in the Work or in the activities of Owner or separate contractors. GC/CM's submittal schedule shall allow a reasonable time for A/E and consultants review but in no case less than the review periods indicated in Division 1. A/E and consultants will review, approve, or take other appropriate action on the Shop Drawings. GC/CM shall perform no portion of the Work requiring submittal and review of Shop Drawings until the respective submittal has been reviewed and the A/E and consultants has approved or taken other appropriate action. Owner and consultants shall respond to Shop Drawing submittals with reasonable promptness. Any Work by GC/CM shall be in accordance with reviewed Shop Drawings. Submittals made by GC/CM that are not required by the Contract Documents may be returned without action.
- C. Approval, or other appropriate action with regard to Shop Drawings, by Owner, A/E or Owner's consultants shall not relieve GC/CM of responsibility for any errors or omissions in such Shop Drawings,

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nor from responsibility for compliance with the requirements of the Contract Documents. Unless specified in the Contract Documents, review by Owner, A/E or Owner's consultants shall not constitute an approval of the safety precautions employed by GC/CM during construction, or constitute an approval of GC/CM's means or methods of construction. If GC/CM fails to obtain approval before installation, and the item or work is subsequently rejected, GC/CM shall be responsible for all costs of correction.

- D. If Shop Drawings show variations from the requirements of the Contract Documents, GC/CM shall describe such variations in writing, separate from the Shop Drawings, at the time it submits the Shop Drawings containing such variations. If A/E and consultants approve any such variation, an appropriate Change Order will be issued. If the variation is minor and does not involve an adjustment in the Contract Sum or Contract Time; a Change Order need not be issued; however, the modification shall be recorded upon the Project Record.
- E. GC/CM shall submit Shop Drawings and Submittals in form and number as indicated in Division 1.
- F. Shop Drawings, product data, samples and similar submittals are not Contract Documents. The purpose of their submittal is to demonstrate for those portions of the Work for which submittals are required by the Contract Documents the way in which GC/CM proposes to conform to the information given and the design concept expressed in the Contract Documents. By approving and submitting Shop Drawings, product data, samples and similar submittals, GC/CM represents that GC/CM has determined and verified materials, field measurements and field construction criteria related thereto, or will do so, and has checked and coordinated the information contained within such submittals with the requirements of the Work and of the Contract Documents.

4.04 ORGANIZATION OF SPECIFICATIONS

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

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

- A. The Drawings, Specifications, and other documents prepared by A/E and consultants are instruments of A/E's service through which the Work to be executed by GC/CM is described. Neither GC/CM nor any Subcontractor shall own or claim a copyright in the Drawings, Specifications, and other documents prepared by A/E and consultants, and A/E and consultants shall be deemed the author of them and will, along with any rights of Owner, retain all common law, statutory, and other reserved rights, in addition to the copyright.
- B. The Drawings, Specifications, and other documents prepared by the A/E and consultants, and copies thereof furnished to GC/CM, are for use solely with respect to this Project. They are not to be used by GC/CM or any Subcontractor on other projects or for additions to this Project outside the scope of the Work without the specific written consent of Owner and A/E and consultants. GC/CM and Subcontractors are granted a limited license to use and reproduce applicable portions of the Drawings, Specifications, and other documents prepared by A/E and consultants appropriate to and for use in the execution of their Work.
- C. GC/CM and all Subcontractors grant a non-exclusive license to Owner, without additional cost or royalty, to use for its own purposes (including reproduction) all Shop Drawings, together with the information and diagrams contained therein, prepared by GC/CM or any Subcontractor. In providing Shop Drawings, GC/CM and all Subcontractors warrant that they have authority to grant to Owner a license to use the Shop Drawings hereunder, or to secure for Owner, at GC/CM's own cost, licenses in conformity with this section.
- D. The Shop Drawings and other submittals prepared by GC/CM, Subcontractors of any tier, or its or their equipment or material suppliers, and copies thereof furnished to GC/CM, are for use solely with respect to

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this Project. They are not to be used by GC/CM or any Subcontractor of any tier, or material or equipment supplier, on other projects or for additions to this Project outside the scope of the Work without the specific written consent of Owner. GC/CM, Subcontractors of any tier, and material or equipment suppliers are granted a limited license to use and produce applicable portions of the Shop Drawings and other submittals appropriate to and for use in the execution of their Work under the Contract Documents.

PART 5 **PERFORMANCE**

5.01 **CONTRACTOR CONTROL AND SUPERVISION**

- A. GC/CM shall cause the Work to be completed in a good and workmanlike manner free of defects. GC/CM shall be solely responsible for and have control over construction means, methods, techniques, sequences, and procedures and shall cause the foregoing to comply with applicable federal, state and local laws, regulations, statutes and ordinances. GC/CM shall also be solely responsible for coordinating all portions of the Work, unless the Contract Documents give other specific instructions concerning these matters. GC/CM shall disclose its means and methods of construction when requested by Owner.
- B. Unless otherwise directed by Owner in writing, GC/CM shall report to and take direction from Owner's Development Manager for all aspects of performance of the Work. Performance of the Work shall be directly supervised by a competent superintendent appointed by GC/CM who is satisfactory to Owner and has authority to act for GC/CM. The superintendent shall not be changed without the prior written consent of Owner.
- C. GC/CM shall be responsible to Owner for acts and omissions of GC/CM, Subcontractors, and their employees and agents.
- D. GC/CM shall enforce strict discipline and good order among GC/CM's employees and other persons performing the Work. GC/CM shall not permit employment of persons not skilled in tasks assigned to them. GC/CM's employees shall at all times conduct business in a manner that assures fair, equal, and nondiscriminatory treatment of all persons. GC/CM shall remove from the Work or Project site any employee Owner deems incompetent, careless, or otherwise objectionable, promptly after receipt of notice from Owner.
- E. GC/CM shall keep on the Project site a copy of the Drawings, Specifications, addenda, reviewed Shop Drawings, and permits and permit drawings.
- F. GC/CM shall insure that its owner(s) and employees, and those of its Subcontractors, comply with the Ethics in Public Service Act RCW 42.52, which, among other things, prohibits state employees from having an economic interest in any public works contract that was made by, or supervised by, that employee. GC/CM shall remove, at its sole cost and expense, any of its, or its Subcontractors' employees, if they are in violation of this Act.
- G. Work During Off Hours: GC/CM will give Owner prior notice of use of overtime and keep Owner adequately informed of overtime costs and the benefits.
- H. GC/CM shall be responsible for cutting, fitting or patching required to complete the Work or to make its parts fit together properly. GC/CM shall not damage or endanger a portion of the Work by cutting, patching or otherwise altering such construction. Fitting of all materials shall be done to preserve the strength and durability of the material and to present a clean, well-worked appearance.

5.02 **PERMITS, FEES, AND NOTICES**

- A. Unless otherwise provided in the Contract Documents, GC/CM shall pay for and obtain all permits, licenses, and inspections necessary for proper execution and completion of the Work other than the master

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use and building permit which shall be paid for by Owner. Prior to Final Completion, the approved, signed permits shall be delivered to Owner.

- B. If allowances for permits or utility fees are called for in the Contract Documents and set forth in GC/CM's bid, and the actual costs of those permits or fees differ from the allowances in the Contract Documents, the difference shall be adjusted by Change Order. GC/CM shall work collaboratively with Owner and otherwise endeavor to minimize street-use fees throughout the Project.
- C. GC/CM shall comply with and give notices required by all federal, state, and local laws, ordinances, rules, regulations, and lawful orders of public authorities applicable to performance of the Work.
- D. Owner shall pay the City of Seattle directly for the cost of the Master Use and Building Permit. Prior to Final Completion, the Building Permit and City-approved drawings, signed inspection card(s), and any appropriate occupancy permits shall be submitted by GC/CM to Owner.

5.03 PATENTS AND ROYALTIES

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

5.04 PREVAILING WAGES

- A. GC/CM shall pay the prevailing rate of wages to all workers, laborers, or mechanics employed in the performance of any part of the Work in accordance with RCW 39.12 and the rules and regulations of the Department of Labor and Industries. The schedule of prevailing wage rates for the localities of the Work, is determined by the Industrial Statistician of the Department of Labor and Industries. It is GC/CM's responsibility to verify the applicable prevailing wage rate. GC/CM shall comply with all applicable requirements of any Project Labor Agreements or similar arrangements in force for the Project.
- B. Before commencing the Work, GC/CM shall file a statement under oath with Owner and with the Director of Labor and Industries certifying the rate of hourly wage paid and to be paid each classification of laborers, workers, or mechanics employed upon the Work by GC/CM and Subcontractors. Such rates of hourly wage shall not be less than the prevailing wage rate.
- C. Disputes regarding prevailing wage rates shall be referred for arbitration to the Director of the Department of Labor and Industries. The arbitration decision shall be final and conclusive and binding on all parties involved in the dispute as provided for by RCW 39.12.
- D. Each Application for Payment submitted by GC/CM shall state that prevailing wages have been paid in accordance with the prefiled statement(s) of intent, as approved. Copies of the approved intent statement(s) shall be posted on the job site with the address and telephone number of the Industrial Statistician of the Department of Labor and Industries where a complaint or inquiry concerning prevailing wages may be made.
- E. In compliance with chapter 296-127 WAC, GC/CM shall pay to the Department of Labor and Industries the currently established fee(s) for each statement of intent and/or affidavit of wages paid submitted to the Department of Labor and Industries for certification.

5.05 HOURS OF LABOR

- A. GC/CM shall comply with all applicable provisions of RCW 49.28 and they are incorporated herein by reference. Pursuant to that statute, no laborer, worker, or mechanic employed by GC/CM, any Subcontractor, or any other person performing or contracting to do the whole or any part of the Work, shall be permitted or required to work more than eight (8) hours in any one calendar day, provided, that in cases of extraordinary emergency, such as danger to life or property, the hours of work may be extended, but in such cases the rate of pay for time employed in excess of eight hours of each calendar day shall be not less than one and one-half times the rate allowed for this same amount of time during eight (8) hours' service.
- B. Notwithstanding the subsection A above, RCW 49.28 permits a contractor or subcontractor in any public works contract subject to those provisions, to enter into an agreement with its employees in which the employees work up to ten (10) hours in a calendar day. No such agreement may provide that the employees work ten-hour days for more than four (4) calendar days a week. Any such agreement is subject to approval by the employees. The overtime provisions of RCW 49.28 shall not apply to the hours, up to forty (40) hours per week, worked pursuant to any such agreement.

5.06 NONDISCRIMINATION

- A. Discrimination in all phases of employment is prohibited by, among other laws and regulations, Title VII of the Civil Rights Act of 1964, the Vietnam Era Veterans Readjustment Act of 1974, sections 503 and 504 of the Vocational Rehabilitation Act of 1973, the Equal Employment Act of 1972, the Age Discrimination Act of 1967, the Americans with Disabilities Act of 1990, the Civil Rights Act of 1991, Presidential Executive Order 11246, Executive Order 11375, the Washington State Law Against Discrimination, RCW 49.60, and Gubernatorial Executive Order 85-09. These laws and regulations establish minimum requirements for affirmative action and fair employment practices that GC/CM must meet.
- B. During performance of the Work:
1. GC/CM shall not discriminate against any employee or applicant for employment because of race, creed, color, national origin, sex, age, marital status, or the presence of any physical, sensory, or mental disability, Vietnam era veteran status, or disabled veteran status, nor commit any other unfair practices as defined in RCW 49.60.
 2. GC/CM shall, in all solicitations or advertisements for employees placed by or for it, state that all qualified applicants will be considered for employment, without regard to race, creed, color, national origin, sex, age, marital status, or the presence of any physical, sensory, or mental disability.
 3. GC/CM shall send to each labor union, employment agency, or representative of workers with which it has a collective bargaining agreement or other contract or understanding, a notice advising the labor union, employment agency, or workers' representative of GC/CM's obligations according to the Contract Documents and RCW 49.60.
 4. GC/CM shall permit access to its books, records, and accounts, and to its premises by Owner, and by the Washington State Human Rights Commission, for the purpose of investigation to ascertain compliance with this section of the Contract Documents.
 5. GC/CM shall include the provisions of this section in every Subcontract.

5.07 SAFETY PRECAUTIONS

- A. GC/CM shall be responsible for initiating, maintaining, and supervising all safety precautions and programs in connection with the performance of the Work.

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- B. In carrying out its responsibilities according to the Contract Documents, GC/CM shall protect the lives and health of employees performing the Work and other persons who may be affected by the Work; prevent damage to materials, supplies, and equipment whether on site or stored off-site; and prevent damage to other property at the site or adjacent thereto. GC/CM shall give all notices required by and shall comply with all applicable laws, ordinances, rules, regulations, and orders of any public body having jurisdiction for the safety of persons or property or to protect them from damage, injury, or loss; shall erect and maintain all necessary safeguards for such safety and protection; and shall notify owners of adjacent property and utilities when prosecution of the Work may affect them.
- C. GC/CM shall maintain an accurate record of exposure data on all incidents relating to the Work resulting in death, traumatic injury, occupational disease, or damage to property, materials, supplies, or equipment. GC/CM shall immediately report any such incident to Owner. Owner shall, at all times, have a right of access to all records of exposure.
- D. GC/CM shall provide all persons working on the Project site with information and training on hazardous chemicals in their work at the time of their initial assignment, and whenever a new hazard is introduced into their work area. GC/CM shall fully comply with all informational and training requirements specified in applicable laws, ordinances, rules, regulations, and orders of any public body having jurisdiction.
- E. Hazardous, toxic, or harmful substances shall be handled in accordance with the following terms:
1. GC/CM shall not keep, use, dispose, transport, generate, or sell on or about the Project site, any chemical, material, element, compound, solution, mixture, substance or matter of any kind whatsoever now or hereafter defined, classified, listed, designated or regulated as hazardous, toxic, radioactive, dangerous, or harmful by any federal, state or local law, regulation, statute or ordinance hereinafter collectively referred to as "hazardous substances", in violation of any such law, regulation, statute, or ordinance, and in no case shall any such hazardous substance be stored more than ninety (90) calendar days on the Project site. Without limiting the generality of the preceding sentence, the term "hazardous substances" shall include but not be limited to (a) asbestos, (b) petroleum-based chemicals and substances, (c) urea formaldehyde, (d) radon, and (e) PCBs.
 2. GC/CM shall promptly notify Owner of all spills or releases of any hazardous substances that are otherwise required to be reported to any regulatory agency and pay the cost of cleanup. GC/CM shall promptly notify Owner of all failures to comply with any federal, state, or local law, regulation, or ordinance; all inspections of the Project site by any regulatory entity concerning the same; all regulatory orders or fines; and all responses or interim cleanup actions taken by or proposed to be taken by any government entity or private party on the Project site.
 3. Owner will provide any reports, drawings, or other information known to Owner relating to hazardous substances that have been identified at the Project site.
 4. GC/CM may reasonably rely upon the accuracy of the information provided by Owner per subparagraph 3 above, but such information is not part of the Contract Documents. Except for such reasonable reliance on such information as provided by Owner pursuant to subparagraph 3 above, GC/CM may not rely upon or make any claim against Owner or its agents, or any of their officers, directors, members, partners, employees, agents, consultants, or Subcontractors with respect to:
 - i. the completeness of such reports and drawings for GC/CM's purposes, including, but not limited to, any aspects of the means, methods, techniques, sequences and procedures of construction to be employed by GC/CM and safety precautions and programs incident thereto; or

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- ii. other data, interpretations, opinions and information contained in such reports or shown or indicated in such drawings; or
 - iii. any GC/CM interpretation of or conclusion drawn from any information provided by Owner or any such other data, interpretations, opinions or information.
5. GC/CM shall not be responsible for any hazardous substances uncovered or revealed at the Project site which was not shown or indicated in Drawings or Specifications or identified in the Contract Documents to be within the scope of the Work. GC/CM shall be responsible for any hazardous condition created with any materials brought to the Project by GC/CM, Subcontractors, suppliers, or anyone else for whom GC/CM is responsible.
6. If GC/CM encounters a hazardous substance or if GC/CM or anyone for whom GC/CM is responsible creates a danger or legal violation related to a hazardous substance, GC/CM shall immediately: (i) secure or otherwise isolate such condition; (ii) stop all Work in connection with such condition and in any area affected; and (iii) notify Owner and A/E (and promptly thereafter confirm such notice in writing). Owner shall promptly consult with A/E concerning the necessity for Owner to retain a qualified expert to evaluate such condition or take corrective action, if any. Promptly after consulting with A/E, Owner shall take such actions as are necessary to permit Owner to timely obtain required permits and provide GC/CM written directive for further actions.
7. GC/CM shall not be required to resume Work in connection with such condition or in any affected area until after Owner has obtained any required permits related thereto and delivered written notice to GC/CM: (i) specifying that such condition and any affected area is or has been rendered safe for the resumption of Work; or (ii) specifying any special conditions under which such Work may be resumed safely. If Owner and GC/CM cannot agree as to entitlement to or on the amount or extent, if any, of any adjustment in the cost of work or time of performance, or both, as a result of such Work stoppage or such special conditions under which Work is agreed to be resumed by GC/CM, the GC/CM may make a claim for equitable adjustment.
8. GC/CM shall defend, indemnify, and hold Owner, Development Manager and A/E harmless pursuant to the terms of this Agreement from and against any liabilities, costs, claims, damages, fines, penalties or expenses, including without limitation attorneys' fees and costs of investigation, soils testing, governmental approvals, remediation and clean-up arising out of or in any way connected with the failure of Contractor or its Subcontractors or Suppliers of all tiers to comply with this Section.
- F. All Work shall be performed with due regard for the safety of the public. GC/CM shall perform the Work so as to cause a minimum of (1) interruption of vehicular traffic, or (2) inconvenience to pedestrians. All arrangements to care for such traffic shall be GC/CM's responsibility.
- G. In an emergency affecting the safety of life or the Work or of adjoining property, GC/CM is permitted to act, at its discretion, to prevent such threatened loss or injury, and GC/CM shall so act if so authorized or instructed.
- H. Nothing provided in this section shall be construed as imposing any duty upon Owner or A/E with regard to, or as constituting any express or implied assumption of control or responsibility over, Project site safety, or over any other safety conditions relating to employees or agents of GC/CM or any of its Subcontractors, or the public or others.
- 5.08 OPERATIONS, MATERIAL HANDLING, AND STORAGE AREAS
- A. GC/CM shall confine all operations, including storage of materials, to Owner-approved areas.

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- B. Temporary buildings (e.g., storage sheds, shops, offices) and utilities may be provided by GC/CM only with the consent of Owner. The temporary buildings and utilities shall be removed by GC/CM at its upon completion of the Work.
- C. When materials are transported in prosecuting the Work, vehicles shall not be loaded beyond the loading capacity recommended by the manufacturer of the vehicle or prescribed by federal, state, or local law or regulation. Materials when allowed to be stored within the Building shall not exceed the floor load capacity of the existing structure. GC/CM shall comply with and shall cause all tie-down requirements of federal, state and local law and regulation to be complied with by the employees of GC/CM and Subcontractors of all tiers.
- D. Ownership and control of all materials or facility components to be demolished or removed from the Project site by GC/CM shall immediately vest in GC/CM upon severance of the component from the facility or severance of the material from the Project site. GC/CM shall be responsible for compliance with all laws governing the storage and ultimate disposal. GC/CM shall provide Owner with a copy of all manifests and receipts evidencing proper disposal when required by Owner or applicable law.
- E. GC/CM shall be responsible for the proper care and protection of its materials and equipment delivered to the Project site. Materials and equipment may be stored on the premises subject to approval of Owner. When GC/CM uses any portion of the Project site as a shop, GC/CM shall be responsible for any repairs, patching, or cleaning arising from such use.
- F. GC/CM shall protect and be responsible for any damage or loss to the Work, or to the materials or equipment until the date of Substantial Completion, and shall repair or replace without cost to Owner any damage or loss that may occur, except damages or loss caused by the acts or omissions of Owner. GC/CM shall also protect and be responsible for any damage or loss to the Work, or to the materials or equipment, after the date of Substantial Completion, and shall repair or replace without cost to Owner any such damage or loss that might occur, to the extent such damages or losses are caused by the acts or omissions of GC/CM or any Subcontractor.

5.09 NO STOPPAGE OF WORK

- A. Notwithstanding anything contained in the Contract Documents, in no event shall GC/CM stop Work or delay Work because of any dispute with Owner or A/E so long as GC/CM has been paid for all undisputed Work that is then due and payable.

5.10 UNFORESEEN PHYSICAL CONDITIONS

- A. If GC/CM encounters conditions at the site that are subsurface or otherwise concealed physicals conditions that differ materially from those indicated in the Contract Documents, or 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, then GC/CM shall inform the Owner as promptly as reasonably possible, and give written notice thereof to Owner promptly and in no event later than seven (7) calendar days after the first observance of the conditions. Conditions shall not be disturbed prior to such notice.
- B. If such conditions differ materially and cause a change in GC/CM's cost of, or time required for, performance of any part of the Work, GC/CM may be entitled to an equitable adjustment in the Contract Time or Contract Sum, or both, provided it makes a request therefore as provided in Part 7. Conditions that are disclosed in the information provided by Owner to GC/CM under Section 3.1.5 of the GC/CM Agreement shall be deemed known by GC/CM and not entitle GC/CM to any adjustment in the Contract Time or Contract Sum or both.
- C. If GC/CM encounters mold in the course of its work it shall immediately notify Owner to evaluate what action might be necessary. GC/CM shall ensure that all building materials used during the work are dry

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prior to incorporation into the Work. If GC/CM encounters water intrusion from any source it shall take immediate steps to ensure that any effected material is dry according to generally accepted industry standards.

5.11 PROTECTION OF EXISTING STRUCTURES, EQUIPMENT, UTILITIES AND IMPROVEMENTS

- A. GC/CM shall protect from damage all existing structures (including the Building), equipment, improvements, and utilities: at or near the Project site; and on adjacent property of a third party, the locations of which are made known to or should be known by GC/CM. GC/CM shall repair any damage, including that to any part or portion of the Building or to the property of a third party, resulting from failure to comply with the requirements of the Contract Documents or failure to exercise reasonable care in performing the Work. If GC/CM fails or refuses to repair the damage promptly, Owner may have the necessary work performed and charge the cost to GC/CM.

5.12 LAYOUT OF WORK

- A. GC/CM shall plan and lay out the Work in advance of operations so as to coordinate all Work without delay or revision.
- B. GC/CM shall lay out the Work from established baselines and bench marks indicated on the Drawings, and shall be responsible for all field measurements in connection with the layout. GC/CM shall furnish, at its own expense, all templates, platforms, equipment, tools, materials, and labor required to lay out any part of the Work. GC/CM shall be responsible for executing the Work to the lines that may be established.

5.13 MATERIAL AND EQUIPMENT

- A. All equipment, material, and articles incorporated into the Work shall be new and/or the most suitable grade for the purpose intended, unless otherwise specifically provided in the Contract Documents. Substitution requests shall be handled in accordance with Section [TBD] of the Supplemental Conditions. GC/CM shall ensure that all equipment, materials and articles; incorporated into the Work shall be asbestos free.
- B. GC/CM shall do all cutting, fitting, or patching that may be required to make its several parts fit together properly, or receive or be received by Work of others set forth in, or reasonably implied by, the Contract Documents. GC/CM shall not endanger any Work by cutting, excavating, or otherwise altering the Work and shall not cut or alter the Work of any other contractor unless approved in advance by Owner.
- C. Should any of the Work be found defective, or in any way not in accordance with the Contract Documents, such, in whatever stage of completion, may be rejected by Owner.

5.14 AVAILABILITY AND USE OF UTILITY SERVICES

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

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5.15 TESTS AND INSPECTION

- A. The Contract Documents and governmental or regulatory authorities with jurisdiction require portions of the Work to be inspected, tested, or approved. Depending on the responsibilities defined in the Contract Documents, Contactor shall either perform or fully cooperate with such inspections and/or testing. Owner shall select and retain the services of an independent testing agency to perform those inspections and tests that the Contract Documents indicate are Owner's responsibility. All tests and inspections that are not specifically indicated in the Contract Documents as the responsibility of Owner shall be the responsibility of GC/CM. Responsibility for costs of inspections, tests and approvals is set forth in Division 1. GC/CM shall maintain complete inspection records and make them available to Owner. GC/CM shall be responsible for inspection of portions of Work already performed to determine that such portions are in proper condition to receive subsequent Work.
- B. Owner may, at any time, conduct such inspections and tests as it deems necessary to ensure that the Work is in accordance with the Contract Documents. Owner shall promptly notify GC/CM if an inspection or test reveals that the Work is not in accordance with the Contract Documents. Unless the subject items are expressly accepted by Owner, such Owner inspection and tests are for the sole benefit of Owner and do not:
1. Constitute or imply acceptance;
 2. Relieve GC/CM of responsibility for providing adequate quality control measures;
 3. Relieve GC/CM of responsibility for risk of loss or damage to the Work, materials, or equipment;
 4. Relieve GC/CM of its responsibility to comply with the requirements of the Contract Documents;
or
 5. Impair Owner's right to reject defective or nonconforming items, or to avail itself of any other remedy to which it may be entitled.

GC/CM shall consult with the appropriate government agency on a regular basis, and sufficiently in advance of scheduled completion so as to allow time to determine all inspections that are required, to satisfy all conditions and requirements of the Building Department with regard to inspection and shall expedite resolution of any conflicts or discrepancies concerning inspection requirements for issuance of Certificates of Occupancy. Such consultations shall specifically include review of the criteria for inspection and related interpretation of building codes to ascertain any difference from those used at the time of "plan check." Any conflicts that GC/CM may discover shall be brought to Owner's attention and shall be resolved immediately with Owner, A/E and Building Department. Special emphasis shall be given to life safety requirements in this regard. GC/CM shall be responsible for expediting all inspections. Required certificates of testing or inspection shall, unless otherwise required by the Contract Documents, be secured by GC/CM and promptly delivered to Development Manager.

- C. Neither observations by an inspector retained by Owner, the presence or absence of such inspector on the site, nor inspections, tests, or approvals by others, shall relieve GC/CM from any requirement of the Contract Documents, nor is any such inspector authorized to change any term of condition of the Contract Documents.
- D. GC/CM shall promptly furnish, without additional charge, all facilities, labor, material and equipment reasonably needed for performing such safe and convenient inspections and tests as may be required by Owner. Owner may charge GC/CM any additional cost of inspection or testing when Work is not ready at the time specified by GC/CM for inspection or testing, or when prior rejection makes reinspection or retest necessary. Owner shall perform its inspections and tests in a manner that will cause no undue delay in the Work.

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5.16 CORRECTION OF NONCONFORMING WORK

- A. If a portion of the Work is covered contrary to the requirements in the Contract Documents, it must, if required in writing by Owner, be uncovered for Owner's observation and be replaced at GC/CM's expense and without change in the Contract Time.
- B. If, at any time prior to Final Completion, Owner desires to examine the Work, or any portion of it, which has been covered, Owner may request to see such Work and it shall be uncovered by GC/CM. If such Work is in accordance with the Contract Documents, GC/CM shall be entitled to an adjustment in the Contract Sum for the costs of uncovering and replacement, and, if completion of the Work is thereby delayed, an adjustment in the Contract Time, provided it makes a request therefore as provided in Part 7. If such Work is not in accordance with the Contract Documents, GC/CM shall pay the costs of uncovering, examination, reconstruction and replacement.
- C. GC/CM shall promptly correct Work found by Owner not to conform to the requirements of the Contract Documents, whether observed before or after Substantial Completion and whether or not fabricated, installed, or completed. GC/CM shall bear all costs of correcting such nonconforming Work, including additional testing and inspections, costs to uncover, reconstruct and replace.
- D. If, within one (1) year after the date of Substantial Completion of the Work or designated portion thereof, or within one (1) year after the date for commencement of any system warranties established under Section 5.21, or within the terms of any applicable special warranty required by the Contract Documents, any of the Work is found to be not in accordance with the requirements of the Contract Documents, GC/CM shall correct it promptly after receipt of written notice from Owner to do so. Owner shall give such notice promptly after discovery of the condition. This period of one year shall be extended, with respect to portions of Work first performed after Substantial Completion, by the period of time between Substantial Completion and the actual performance of the Work. GC/CM's duty to correct with respect to Work repaired or replaced shall run for one (1) year from the date of repair or replacement. GC/CM shall be responsible for all costs of correction and for all costs of destroyed or damaged Work or other property caused by any repair or replacement under this subsection D, without reimbursement by Owner. Obligations under this Section 5.16 shall survive Final Acceptance.
- E. GC/CM shall remove from the Project site portions of the Work that are not in accordance with the requirements of the Contract Documents and are neither corrected by GC/CM nor accepted by Owner.
- F. If GC/CM fails to correct nonconforming Work within a reasonable time after written notice to do so, Owner may replace, correct, or remove the nonconforming Work and charge the cost thereof to GC/CM.
- G. GC/CM shall bear the cost of correcting destroyed or damaged Work, whether completed or partially completed, caused by GC/CM's correction or removal of Work that is not in accordance with the requirements of the Contract Documents.
- H. Nothing contained in this section shall be construed to establish a period of limitation with respect to other obligations that GC/CM might have according to the Contract Documents. Establishment of the time period of one (1) year as described in this Section 5.16 relates only to the specific obligation of GC/CM to correct the Work, and has no relationship to the time within which GC/CM's obligation to comply with the Contract Documents may be sought to be enforced, including the time within which such proceedings may be commenced.
- I. If Owner prefers to accept Work that is not in accordance with the requirements of the Contract Documents, Owner may do so instead of requiring its removal and correction, in which case the Contract Sum may be reduced as appropriate and equitable.

5.17 CLEAN UP OR BUILD CLEAN

GC/CM shall at all times keep the Project site, including hauling routes, infrastructures, utilities, and storage areas, free from accumulations of waste materials. Before completing the Work, GC/CM shall remove from the premises its rubbish, tools, scaffolding, equipment, and materials. Upon completing the Work, GC/CM shall leave the Project site in a clean, neat, and orderly condition satisfactory to Owner. If GC/CM fails to clean up as provided herein, and after reasonable notice from Owner, Owner may do so and the cost thereof shall be charged to GC/CM. GC/CM shall cause the Project site to be kept reasonably clean during the course of the Work so as to not attract rodents or vermin and to reduce the presence of dust and dirt about the Project.

5.18 ACCESS TO WORK

GC/CM shall provide Owner and A/E access to the Work in progress wherever located.

5.19 OTHER CONTRACTS

Owner may undertake or award other contracts for additional work at or near the Project site. GC/CM shall reasonably cooperate with the other contractors and with Owner's employees and shall carefully adapt scheduling and perform the Work in accordance with these Contract Documents to reasonably accommodate the other work.

5.20 SUBCONTRACTORS AND SUPPLIERS

- A. Before submitting the first Application for Payment, GC/CM shall furnish in writing to Owner the names, addresses, and telephone numbers of all Subcontractors, as well as suppliers providing materials. The Subcontractor and material log will be updated and shared with the Owner as requested. GC/CM shall utilize Subcontractors and suppliers that are experienced and qualified, and meet the requirements of the Contract Documents, if any. GC/CM shall not utilize any Subcontractor or supplier to whom Owner has a reasonable objection, and shall obtain Owner's written consent before making any substitutions or additions.
- B. All Subcontracts must be in writing. By appropriate written agreement, GC/CM shall require each Subcontractor, so far as applicable to the Work to be performed by Subcontractor, to be bound to GC/CM by terms of the Contract Documents, and to assume toward GC/CM all the obligations and responsibilities that GC/CM assumes toward Owner in accordance with the Contract Documents. Each Subcontract shall preserve and protect the rights of Owner in accordance with the Contract Documents with respect to the Work to be performed by Subcontractor so that subcontracting thereof will not prejudice such rights. Where appropriate, GC/CM shall require each Subcontractor to enter into similar agreements with Sub-subcontractors. However, nothing in this subsection B shall be construed to alter the contractual relations between GC/CM and its Subcontractors with respect to insurance or bonds.
- C. GC/CM shall schedule, supervise, and coordinate the operations of all Subcontractors. No Subcontracting of any of the Work shall relieve GC/CM from its responsibility for the performance of the Work in accordance with the Contract Documents or any other obligations of the Contract Documents.
- D. Each Subcontract or other agreement for a portion of the Work is hereby assigned by GC/CM to Owner provided that:
 - 1. The assignment is effective only after termination by Owner for cause pursuant to Section 9.01 or for convenience pursuant to Section 9.02 and only for those Subcontracts that Owner accepts by notifying Subcontractor in writing; and
 - 2. After the assignment is effective, Owner will assume all future duties and obligations toward Subcontractor that GC/CM assumed in the Subcontract.

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3. The assignment is subject to the prior rights of the surety, if any, obligated under any bond provided in accordance with the Contract Documents.
- E. GC/CM shall include the language of this section in each of its first tier Subcontracts, and shall require each of its Subcontractors to include the same language of this section in each of their subcontracts, adjusting only as necessary the terms used for the contracting parties. Upon request of Owner, GC/CM shall promptly provide documentation to Owner demonstrating that Subcontractor meets Subcontractor responsibility criteria below. The requirements of this section apply to all Subcontractors regardless of tier. At the time of Subcontract execution, GC/CM shall verify that each of its first tier Subcontractors meets the following bidder responsibility criteria:
1. Have a current certificate of registration as a contractor in compliance with chapter 18.27 RCW, which must have been in effect at the time of Subcontract bid submittal;
 2. Have a current Washington Unified Business Identifier number;
 3. If applicable, have:
 - a. Have Industrial Insurance (workers' compensation) coverage for Subcontractor's employees working in Washington, as required in Title 51 RCW;
 - b. A Washington Employment Security Department number, as required in Title 50 RCW;
 - c. A Washington Department of Revenue state excise tax registration number, as required in Title 82 RCW;
 - d. An electrical contractor license, if required by Chapter 19.28 RCW;
 - e. An elevator contractor license, if required by Chapter 70.87 RCW.
 4. Not be disqualified from bidding on any public works contract under RCW 39.06.010 or 39.12.065 (3).

5.21 WARRANTY OF CONSTRUCTION

- A. In addition to any special warranties provided elsewhere in the Contract Documents, GC/CM warrants that all Work will be completed in accordance with the Contract Documents and be free of defect in design furnished by GC/CM (more specifically any design furnished by GC/CM or its Subcontractors must satisfy the applicable professional standard of care), equipment, material or workmanship. Work not conforming to these requirements, including without limitation, substitutions not properly approved and authorized, shall be considered defective. GC/CM's warranty excludes remedy for damage or defect caused by abuse, alterations to the Work not executed by the GC/CM, improper or insufficient maintenance, improper operation, or normal wear and tear and normal usage.
- B. With respect to all warranties, express or implied, for Work performed or materials furnished according to the Contract Documents, GC/CM shall:
1. Obtain all warranties that would be given in normal commercial practice;
 2. Require all warranties to be executed, in writing, for the benefit of Owner;
 3. Enforce all warranties for the benefit of Owner, if directed by Owner; and
 4. Be responsible to enforce any Subcontractor's, manufacturer's, or supplier's warranty should they extend the period specified in the Contract Documents.

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C. The obligations under this section shall survive Final Acceptance.

5.22 INDEMNIFICATION

A. GC/CM shall defend, indemnify, and hold Owner, Development Manager and A/E (singularly "Indemnitee" and collectively "Indemnitees") harmless from and against all third party claims, demands, losses, damages, or costs, including but not limited to damages arising out of bodily injury or death to persons and damage to property, caused by or resulting from:

1. The sole negligence of GC/CM or any of its Subcontractors;
2. The concurrent negligence of GC/CM or any Subcontractor;
3. The concurrent negligence of Indemnitee(s), and of GC/CM or any Subcontractor; but only to the extent of the negligence of GC/CM or such Subcontractor;
4. The use of any design, process, or equipment that constitutes an infringement of any United States patent presently issued, or violates any other proprietary interest, including copyright, trademark, and trade secret, but shall not be responsible for such defense or loss when a particular design, process or equipment is required by the Contract Documents, or where the copyright violations are contained in documents prepared by the Owner, Development Manager or A/E.

B. GC/CM shall also defend, indemnify and hold Indemnitees harmless from and against all claims, demands, losses, damages or costs arising out of any lien or charge of any type, nature, kind or description that may at any time be filed or claimed against the Project or any portion thereof, as a consequence of acts or omissions of GC/CM, a Subcontractor, a Sub-subcontractor, or anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable so long as such lien or charge is not due to Owner's failure to perform its obligation under the Contract Documents.

C. In any action against any Indemnitee(s) indemnified in accordance with this section, by any employee of GC/CM, its Subcontractors, Sub-subcontractors, agents, or anyone directly or indirectly employed by any of them, the indemnification obligation of this section shall not be limited by a limit on the amount or type of damages, compensation, or benefits payable by or for GC/CM or any Subcontractor under RCW Title 51, the Industrial Insurance Act, or any other employee benefit acts. In addition, GC/CM waives immunity as to Indemnitee(s) only, in accordance with RCW Title 51.

PART 6 PAYMENTS AND COMPLETION

6.01 CONTRACT SUM AND COST OF WORK

Owner shall pay GC/CM the Contract Sum for performance of the Work, in accordance with the Contract Documents. The Contract Sum shall include all taxes imposed by law and properly chargeable to the Project, excluding sales tax. Sales tax will be paid separately by Owner as provided in the GC/CM Agreement.

Subject to the MACC and specifically excluding Costs Not To Be Reimbursed as identified below, the "Cost of the Work" shall mean those costs actually, necessarily and reasonably incurred in the proper performance of the Work and paid by GC/CM as set forth below.

REIMBURSABLE COSTS OF THE WORK:

- (a) Amount due under all subcontracts, supply agreements and purchase orders made in accordance with the provisions of this Agreement, including the costs of transportation and storage;
- (b) Wages and salaries for all labor, including insurance, benefits and taxes as described in this section, including services of the preconstruction team, project manager, project superintendent, field superintendents,

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assistants to superintendents, engineers, draftsmen, salaried foremen, clerks, expeditors, on-site safety coordinator, inspectors, tradesmen and such others as may be necessary for the proper conduct of the Work, employed by GC/CM at the jobsite or at off-site locations with the prior approval of Owner.

Labor burden shall be as follows:

i. Salaried employees – non-union affiliated: thirty-two percent (32%) payroll burden; union affiliated: forty-two percent (42%) payroll burden – including all benefits, taxes, and worker compensation insurance. Does not include paid time off (which shall be accrued per company policy based on hours charged to the Project and reimbursed at actual cost), or bonus (which shall not be reimbursed by Owner).

ii. Hourly craft employees – fifty-five percent (55%) of taxable pay for payroll burden on regular working hours and pay. Includes all union benefits, taxes, and worker compensation insurance.

iii. Hourly craft employees – forty percent (40%) of taxable pay for payroll burden on overtime hours and pay. Includes all union benefits, taxes, and worker compensation insurance. If double time is incurred, labor burden percentage for such will be taken up at that time.

iv. Hourly temporary employees, including interns – twenty-five percent (25%) of base hourly wage - including taxes and worker compensation insurance.

(c) The cost (including transportation, storage, operating, maintenance and repair costs) of all materials, temporary structures, equipment, small tools not owned by workmen or subcontractors, or supplies purchased for use on the Site. Small tool reimbursement at 1.5% of base craft labor will be payable to GC/CM to cover the cost of small tools required for the performance of the Work having a value of less than Five Hundred Dollars (\$500.00), up to a maximum total reimbursement for small tools on the Project of Thirty Thousand Dollars (\$30,000.00);

(d) The cost of all rental equipment and materials and consulting services.

(i) To the greatest extent practical, Contactor owned equipment and consulting services (i.e. CAD, MEP Reviews, IT services, etc.) shall be dedicated to and utilized on the Project, and billed at actual costs subject to the conditions in this subsection d. If actual cost billing is not practical or would result in a higher overall cost to the Project, GC/CM's rental charges shall be at or below market rate and capped at seventy percent (70%) of the replacement value. GC/CM shall provide a periodic market analysis and/or a decision matrix that determines whether it is in the Owner's best financial interest for GC/CM to rent, buy, or utilize already-owned equipment to execute required work. GC/CM shall keep Owner apprised of these costs and decisions at monthly billing meetings, and GC/CM shall specifically indicate and provide documentation to Owner regarding the relative costs of the available equipment procurement and use options for upcoming Work to be performed;

(ii) The rental equipment rate for equipment owned by GC/CM shall be charged at the lowest of seventy percent (70%) of the current Associated Equipment distributors published rate, or at the lowest available local rate. If GC/CM rents equipment from a third party, then the rate shall be the lowest available rate. GC/CM shall expedite the return of rented equipment to third parties to minimize rental charges. With respect to GC/CM-owned equipment, rental shall be based on monthly rates but prorated on a daily calendar basis;

(iii) One month prior to use on the Project, if requested by Owner, a listing of all equipment and temporary structures required for the Work exceeding One Thousand Dollars (\$1,000) in replacement cost, including cost information, rental rates and applicable duration of use, proposed to be used shall be provided to Owner, and Owner shall have the right to purchase and/or supply such items to the Project.

(iv) After commencement of construction, a listing of all other equipment with a cost of Five Thousand Dollars (\$5,000) or more (where the reasonably anticipated rental may exceed fifty percent (50%) of the value) and any office equipment shall be presented to Owner on the same basis, along with cost information and rental rates. Such materials, temporary structures, equipment, tools and supplies that have been supplied by Owner, when no longer required for the Work, shall be the property of Owner and may be retained or sold by Owner. Owner shall insure or

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self-insure such equipment from any loss or damage and hereby releases GC/CM and its subcontractors from any loss or damage thereto. GC/CM shall use its best efforts to maintain and repair all tools and equipment and to safeguard said tools and equipment from loss, vandalism and theft;

- (e) Radio equipment will, at the election of Owner, be either:
 - 1. Leased from GC/CM or another third party at the prevailing market rate; or
 - 2. Purchased by Owner and loaned to GC/CM.

All repair and maintenance work if not included in the lease cost will be a reimbursable and included in the Cost of the Work subject to the MACC. The radios will be for the exclusive use of GC/CM's personnel only.

(f) Relocation costs (per GC/CM's standard relocation policy, which shall be subject to Owner approval and the framework is attached as Exhibit 1 hereto) of GC/CM personnel only as required for execution of the Work subject to Owner's sole discretion, and only if approved in writing by Owner in advance. Travel costs (which are limited as provided in Exhibit 2 hereto) of GC/CM personnel only as required for execution of the Work shall be a reimbursable Cost of Work up to a maximum amount of \$250,000.00 for the entire Project. Any additional travel costs incurred by GC/CM above the \$250,000.00 limit shall be included within the scope of GC/CM's Percent Fee and shall not be reimbursable as a Cost of Work;

(g) The cost of renting, subject to the approval of Owner, real property necessary for storage, job office or performing any other part of the Work;

(h) The cost of telephone, faxes, telegrams, postage, photographs (including negatives) and similar items, blueprints, transportation and storage charges, surveys, and soil and other investigations incurred at the Project site;

(i) [Intentionally deleted];

(j) The cost of engineering and accounting services directly related to the Work that are performed at the Project site;

(k) Federal, state, municipal and other taxes, and such employee benefits, pensions, apprentice training and unemployment fund contributions as are required under union contracts and established company plans (except those benefits based on profits), all with respect to services performed or materials furnished, the cost of which is included in the Cost of the Work, subject to the MACC, it being expressly understood that none of the foregoing includes Federal, state or local income or franchise taxes.

(l) Losses and expenses, not compensated by insurance or otherwise, sustained by GC/CM in connection with the Work, provided that they have resulted from causes that are the responsibility of Owner. Notwithstanding the above, if GC/CM failed to maintain insurance required by the Contract Documents, and as a result there are insufficient insurance proceeds to cover such losses, GC/CM shall bear such losses and such costs shall not be included in the Cost of the Work and shall not be added to the MACC and shall not be subject to a GC/CM's fee;

(m) Compensation of GC/CM's salaried personnel specifically assigned to the Project;

(n) Other expenses or charges, incurred in the prosecution of the Work and approved in writing by Owner;

(o) GC/CM shall give Owner at least twenty (20) calendar days prior notice of any trade discounts, rebates, or other credits available to reduce the cost of the Work, and the extent that any of the foregoing items are not net and provided payment is made by Owner in accordance with the terms of the notice, the amount of all trade discounts, rebates or other credits received by GC/CM shall be deducted from the Cost of the Work;

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- (p) Materials, supplies, equipment, temporary heat, light, power, water, freight, and temporary structures required for proper execution of the Work, maintenance required for any of such items and all sales and other taxes related thereto;
- (q) Incidental supplies and expenses incurred in performance of the Work on the Site that are normally considered expendable such as office supplies, files, sandpaper, emery paper, light globes, paint brushes, lumber crayons, hand lines, etc.;
- (r) Cost of housekeeping, cleanup and debris removal;
- (s) Costs incurred as a result of Federal and State OSHA and WISHA safety requirements (except the costs of fines);
- (t) Costs due to an emergency affecting the safety of persons and/or property, so long as the emergency is not created or caused by negligence of GC/CM, its subcontractors, suppliers and subcontractors of every tier, or anyone directly or indirectly employed by any of them or for whose acts any of them may be liable;
- (u) Costs incurred for security or guard;
- (v) Local and State Business and Occupation taxes;
- (w) Any/all GC/CM recognition programs, separate from the employee bonus program that shall be approved by Owner in advance of such program implementation.

COSTS NOT TO BE REIMBURSED. Notwithstanding anything provided for above, reimbursement of expenses to GC/CM shall not include:

- (a) Salaries or other compensation of GC/CM's personnel normally situated at GC/CM's home office and branch offices, or for any officer of GC/CM (except as included in REIMBURSABLE COSTS OF THE WORK, item m, above);
- (b) Expenses of GC/CM's home and branch offices other than the field office;
- (c) Any part of GC/CM's capital expenses, including interest on GC/CM's capital employed for the Work;
- (d) Overhead or general expenses of any kind, except as may be expressly included in the Contract Documents;
- (e) Costs due to the negligence of GC/CM, its subcontractors, suppliers and subcontractors of every tier, or anyone directly or indirectly employed by any of them or for whose acts any of them may be liable;
- (f) The cost of any item not specifically and expressly included in the items described in the Contract Documents, except with Owner's prior written approval;
- (g) Costs in excess of the MACC;
- (h) The Cost of the Work shall include (but the same shall not be reimbursable to GC/CM) any amount or expense paid or incurred by Owner to persons other than GC/CM as a result of the breach of any obligation of GC/CM or any subcontractor, supplier and subcontractors of every tier under the Contract Documents, including the cost or expense of Owner to perform any such obligation. No such expenses shall be paid or incurred by Owner unless GC/CM fails within seven (7) calendar days after receipt of written notice from Owner to commence and continue correction of such default or neglect with diligence and promptness;
- (i) The cost of GC/CM's computers not located on site.
- (j) Preconstruction costs not approved in writing by Owner;

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- (k) Accounting services at GC/CM's home offices;
- (l) Direct payments by Owner for the building permit, reserve capacity fees and plan check fees, including SEPA, design review and land use fees are not a part of the Cost of the Work or the MACC;
- (m) Penalties, extensions, fines and reinspection fees imposed by a governmental entity to the extent caused by GC/CM or a subcontractor of any tier;
- (n) Any unauthorized expenses listed in Exhibit 2 hereto; and
- (o) Any cost not specifically and expressly described above herein this section as being a reimbursable Cost of the Work.

6.02 SCHEDULE OF VALUES

Before submitting its first Application for Payment, GC/CM shall submit to Owner for approval a breakdown allocating the Total Contract Cost to each principle category of Work, in such detail and with such supporting documentation as requested by Owner ("Schedule of Values"). The approved Schedule of Values shall include appropriate amounts for demobilization, record drawings, O&M manuals, and any other requirements for Project closeout, and shall be used by Owner as the basis for progress payments. Payment for Work shall be made only for and in accordance with those items included in the Schedule of Values.

Owner may, at its sole discretion, from time to time (whether before or after Final Completion or termination of this Agreement) elect to have audit(s) conducted to verify the Cost of the Work through the date of the latest progress payment. If Owner so elects to conduct such audit(s), it shall give notice to GC/CM, and such audit(s) shall be conducted as soon as is reasonably feasible thereafter but in no case shall progress payments to GC/CM be delayed pending outcome of the audit(s). Such audit(s) shall be conducted by an auditor selected by Owner, and Owner shall, except as hereinafter provided, pay the cost of such audit(s). GC/CM agrees to cooperate with the auditor and make available for examination at his home office all of his books, records, correspondence and other documents deemed necessary to conduct the audit by the auditor. GC/CM also agrees to make such audit(s) requirements a part of all subcontracts and GC/CM agrees to allow Owner's auditors to conduct such audit(s), if any.

GC/CM shall repay any and all overbilled amounts within seven (7) calendar days of such audit(s). If the audit(s) reveals an overbilling of more than one percent (1.0%), GC/CM shall pay the cost of the audit(s).

6.03 APPLICATION FOR PAYMENT

- A. At monthly intervals, unless determined otherwise by Owner, GC/CM shall submit to Owner an itemized Application for Payment for Work completed in accordance with the Contract Documents and the approved Schedule of Values. Each application shall be supported by such substantiating data as Owner may require.
- B. By submitting an Application for Payment, GC/CM is certifying that all Subcontractors have been paid, less earned retainage in accordance with RCW 60.28.011 as their interests appeared in the last preceding certificate of payment. By submitting an Application for Payment, GC/CM is recertifying that the representations set forth in Sections 1.03 and 5.21, are true and correct as of the date of the Application for Payment.
- C. At the time it submits an Application for Payment, GC/CM shall analyze and reconcile, to the satisfaction of Owner, the actual progress of the Work with the Progress Schedule.
- D. If authorized by Owner, the Application for Payment may include request for payment for material delivered to the Project site and suitably stored, or for completed preparatory work. Payment may similarly be requested for material stored off the Project site, provided GC/CM complies with or furnishes satisfactory evidence of the following:

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1. The material will be placed in a warehouse that is structurally sound, dry, lighted and suitable for the materials to be stored;
2. The warehouse is located within a 10-mile radius of the Project. Other locations may be utilized, if approved in writing, by Owner;
3. Only materials for the Project are stored within the warehouse (or a secure portion of a warehouse set aside for the Project);
4. GC/CM furnishes Owner a certificate of insurance extending GC/CM's insurance coverage for damage, fire, and theft to cover the full value of all materials stored, or in transit;
5. The warehouse (or secure portion thereof) is continuously under lock and key, and only GC/CM's authorized personnel shall have access;
6. Owner shall at all times have the right of access in company of GC/CM;
7. GC/CM and its surety assume total responsibility for the stored materials; and
8. GC/CM furnishes to Owner certified lists of materials stored, bills of lading, invoices, and other information including photos as may be required, and shall also furnish notice to Owner when materials are moved from storage to the Project site.
9. For material stored off-site not in a warehouse, GC/CM may request payment, provided that the remaining requirements of this section and any additional requirements of Owner are met.

6.04 PROGRESS PAYMENTS

- A. Owner shall make progress payments, in such amounts as Owner determines are properly due, within thirty (30) calendar days after receipt of a properly executed Application for Payment and A/E's certification of payment. Owner shall notify GC/CM in accordance with RCW 39.76 if the Application for Payment does not comply with the requirements of the Contract Documents.
- B. Owner shall retain five percent (5%) of the amount of each progress payment until thirty (30) calendar days after Final Acceptance and receipt of all documents required by law or the Contract Documents, including, at Owner's request, consent of surety to release of the retainage. In accordance with RCW 60.28, GC/CM may request that monies reserved be retained in a fund by Owner, deposited by Owner in a bank or savings and loan, or placed in escrow with a bank or trust company to be converted into bonds and securities to be held in escrow with interest to be paid to GC/CM. Owner may permit GC/CM to provide an appropriate bond in lieu of the retained funds. Notwithstanding anything contained in the Contract Documents, Owner may elect in its absolute discretion to make any payment requested by GC/CM or behalf of a Subcontractor of any tier jointly payable to the GC/CM and such Subcontractor. GC/CM and such Subcontractor shall be responsible for the allocation and disbursement of funds included as part of any such joint payment. In no event shall any joint payment be construed to create any (1) contract between Owner and a Subcontractor of any tier, (2) obligations from Owner to such Subcontractor, or (3) rights in such Subcontractor against Owner.
- C. Title to all Work and materials covered by a progress payment shall pass to Owner at the time of such payment free and clear of all liens, claims, security interests, and encumbrances. Passage of title shall not, however, relieve GC/CM from any of its duties and responsibilities for the Work or materials, or waive any rights of Owner to insist on full compliance by GC/CM with Contract Documents.
- D. Payments due and unpaid in accordance with the Contract Documents shall bear interest as specified in RCW 39.76.

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6.05 PAYMENTS WITHHELD

- A. Owner may withhold or, on account of subsequently discovered evidence, nullify the whole or part of any payment to such extent as may be necessary to protect Owner from loss or damage for reasons including but not limited to:
1. Work not in accordance with the Contract Documents;
 2. Reasonable evidence that the Work required by the Contract Documents cannot be completed for the unpaid balance of the Contract Sum;
 3. Work by Owner to correct defective Work or complete the Work in accordance with Section 5.16;
 4. Failure to perform in accordance with the Contract Documents; or
 5. Cost or liability that may occur to Owner as the result of GC/CM's fault or negligent acts or omissions.
- B. In any case where part or all of a payment is going to be withheld for unsatisfactory performance, Owner shall notify GC/CM in accordance with RCW 39.76.

6.06 RETAINAGE AND BOND CLAIM RIGHTS

RCW Chapters 39.08 and 60.28, concerning the rights and responsibilities of GC/CM and Owner with regard to the performance and payment bonds and retainage, are made a part of the Contract Documents by reference as though fully set forth herein. The parties agree that for purposes of RCW 60.28 "completion of the work", "completion of all work" and like phrases shall mean Final Acceptance. Persons performing labor or furnishing supplies toward the completion of the Contract Documents who intend to file a lien against the contract retainage must do so within thirty (30) calendar days from and after the date of Final Acceptance by Owner and in the manner described in RCW 39.08.030.

6.07 SUBSTANTIAL COMPLETION

Substantial Completion is the stage in the progress of the Work (or portion thereof designated and approved by Owner) when the construction is sufficiently complete, in accordance with the Contract Documents, so Owner can fully occupy or utilize the Work (or the designated portion thereof) for the use for which it is intended. All Work other than incidental corrective shall be completed. Substantial Completion shall include but is not limited to the Work satisfying all conditions required for occupancy by tenants or for tenant improvement construction; completion of all public ingress and egress areas, including removal of all construction debris; completion of all public sidewalks; completion and weather enclosure of the exterior facade of the Project; completion of all elevator vestibules, with disabled/barrier-free access provided complete with code approved and secure exterior disabled/barrier-free access doors; completion of the on-site manager's office; completion of the Fire Command Center that is operational to allow the Seattle Fire Department to access the fire and life safety equipment required; and completion of all common areas of the Project, including corridors, amenities, entries and exits. Substantial Completion shall not have been achieved if all systems and parts are not functional, if utilities are not connected and operating normally, if all required occupancy permits have not been issued, if the Work is not accessible by normal vehicular and pedestrian traffic routes, or if A/E and Development Manager in good faith determine that Substantial Completion has not occurred. The date Substantial Completion is achieved shall be established in writing by Owner. GC/CM may request an early date of Substantial Completion that must be approved by Change Order.

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Owner's occupancy of the Work or designated portion thereof does not necessarily indicate that Substantial Completion has been achieved.⁶

6.08 PRIOR OCCUPANCY

- A. Owner may, upon written notice thereof to GC/CM, take possession of and use any completed or partially completed portion of the Work ("Prior Occupancy") at any time prior to Substantial Completion. Unless otherwise agreed in writing, Prior Occupancy shall not: be deemed an acceptance of any portion of the Work; accelerated the time for any payment to GC/CM; prejudice any rights of Owner provided by any insurance, bond, guaranty, or the Contract Documents; relieve GC/CM of the risk of loss it otherwise would have been responsible for if not the result of Owner's prior occupancy or any of the obligations established by the Contract Documents; establish a date for termination or partial termination of the assessment of liquidated damages; or constitute a waiver of claims.
- B. Notwithstanding anything in the subsection A above, Owner shall be responsible for loss of or damage to the Work resulting from Prior Occupancy. In the event of Prior Occupancy, GC/CM's one year duty to repair any system warranties shall begin when the building systems are activated and used by Owner as reasonably agreed in writing by Owner and GC/CM.

6.09 FINAL COMPLETION, ACCEPTANCE, AND PAYMENT

- A. Final Completion shall be achieved on the last to occur of: (1) Substantial Completion, (2) the Work being fully and finally complete in accordance with the Contract Documents, including but not limited to, all punchlist Work, (3) GC/CM's delivery to Owner of a list of all warranties relating to the Work, including warranties of Subcontractors and materialmen, and the original of such warranties or if not available, copies of such warranties, (4) GC/CM's delivery to Owner of evidence of GC/CM's full payment of Subcontractors, (5) GC/CM's delivery to Owner of the consent of the surety issuing the payment and performance bonds, (6) the absence of any liens or potential liens with respect to the Work, (7) fully-executed, final and unconditional lien releases from all Subcontractors and material suppliers involved in the Project, (8) evidence that the insurance required to be in effect remains in effect and that it will not be canceled, materially modified or allowed to expire without thirty (30) calendar days prior written notice to Owner and (9) such affidavits and other material as may be requested by Owner. The date Final Completion is achieved shall be established by Owner in writing.
- B. Final Acceptance shall be achieved when GC/CM has completed the requirements of the Contract Documents including but not limited to the achievement of Final Completion. The date Final Acceptance is achieved shall be established by Owner in writing. Prior to Final Acceptance, GC/CM shall, in addition to all other requirements in the Contract Documents, submit to Owner a written notice of any outstanding disputes or claims between GC/CM and any of its Subcontractors, including the amounts and other details thereof. Neither Final Acceptance, nor final payment, shall release GC/CM or its sureties from any obligations of these Contract Documents or the payment or performance bonds, or constitute a waiver of

⁶ The Owner may issue limited Notice(s) to Proceed with limited scopes of Work as set forth in and authorized by Owner prior to Owner and GC/CM executing a change order incorporating the MACC/Total Contract Cost for the entire Addition Project and the substantial completion date therefor, in the change order(s) authorizing such limited scopes of Work. Prior to the substantial completion date for entire Addition Project being so established, GC/CM shall promptly and continuously proceed to carry out the limited scopes of Work as set forth in and authorized by Owner in change order(s) authorizing such limited scopes of Work. If and when the substantial completion date for the entire Addition Project is so established, it shall be incorporated herein by Owner and GC/CM agreeing upon and executing a change order incorporating the MACC/Total Contract Cost for the entire Addition Project and the substantial completion date therefor, and said substantial completion date for the entire Addition Project shall also apply to any and all limited scopes of Work as set forth in and authorized by Owner in the change order(s) authorizing such limited scopes of Work.

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any claims by Owner arising from GC/CM's failure to perform the Work in accordance with the Contract Documents. Final Acceptance of the Work shall be as set forth by Owner in writing.

- C. Acceptance of final payment by GC/CM or any Subcontractor, shall constitute a waiver and release to Owner of all claims by GC/CM or any such Subcontractor, for an increase in the Contract Sum or the Contract Time, and for every act or omission of Owner relating to or arising out of the Work, except for those Claims made in accordance with the procedures, including the time limits, set forth in Part 8.

PART 7 CHANGES

7.01 CHANGE IN THE WORK

- A. Owner may, at any time without invalidating the Contract, and without notice to GC/CM's surety, order additions, deletions, revisions, or other changes in the Work. These changes in the Work shall be incorporated into the Contract Documents through the execution of a Change Orders or a Field Order. If any change in the Work ordered by Owner causes an increase or decrease in the Contract Sum or the Contract Time, an equitable adjustment shall be made as provided in Part 7, and such adjustment(s) shall be incorporated into a Change Order.
- B. If Owner desires to order a change in the Work, it may 1) direct the change in a Field Order indicating the adjustment method to be used per Section 7.02B or 2) request a written Change Order proposal from GC/CM.
1. If a Field Order is issued, as soon as possible, and within seven (7) calendar days of receipt, GC/CM shall advise Development Manager in writing of GC/CM's agreement or disagreement with the proposed adjustment or the method. Without such response, GC/CM shall be deemed to have accepted Owner's adjustment and/or method. GC/CM's disagreement shall not relieve GC/CM of its obligation to comply promptly with the written directive.
 2. If Owner issues a request for a written Change Order proposal, GC/CM shall submit a Change Order proposal within 10 calendar days of the request from Owner. GC/CM's Change Order proposal shall be full compensation for implementing the proposed change in the Work, including any adjustment in the Contract Sum or Contract Time, all direct, indirect and impact costs including compensation for all delays in connection with such change in the Work and for any expense or inconvenience, disruption of schedule, or loss of efficiency or productivity occasioned by the change in the Work. Labor, materials and equipment shall be limited to and itemized in the manner described in Section 7.02 below for GC/CM and major Subcontractors. If GC/CM fails to respond within this time, Owner may withhold some or all of a progress payment otherwise due until the tardy proposal is received.
- C. Upon receipt of the Change Order proposal, or a request for equitable adjustment in the Contract Sum or Contract Time, or both, as provided in Sections 7.02 and 7.03, Owner may accept or reject the proposal, request further documentation, or negotiate acceptable terms with GC/CM. Pending agreement on the terms of the Change Order, Owner may direct GC/CM, in writing, to proceed immediately with the change in the Work. GC/CM shall not proceed with any change in the Work until it has obtained Owner's written direction to do so. All Work done pursuant to any Owner-directed change in the Work shall be executed in accordance with the Contract Documents.
- D. If Owner and GC/CM reach agreement on the terms of any change in the Work, including any adjustment in the Contract Sum or Contract Time, such agreement shall be incorporated in a Change Order. The Change Order shall constitute full payment and final settlement of all claims for time and for direct, indirect, and impact costs, including costs of delays, inconvenience, disruption of schedule, or loss of efficiency or productivity, related to any Work either recovered or affected by the Change Order, or related to the events giving rise to the request for equitable adjustment.

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- E. If Owner and GC/CM are unable to reach agreement on the terms of any change in the Work, including any adjustment in the Contract Sum or Contract Time, GC/CM may in writing at any time after it has submitted its proposal in accordance with the requirements of Sections 7.02 and/or 7.03 and after it has received Owner's response to such proposal, request a final offer from Owner. Owner shall provide GC/CM with its written response within thirty (30) calendar days of GC/CM's request. Owner may also provide GC/CM with a final offer at any time. If GC/CM rejects Owner's final offer, or the parties are otherwise unable to reach agreement, GC/CM's only remedy shall be to file a Claim as provided in Part 8.
- F. If Owner and GC/CM are unable to reach agreement on the terms of any change, Owner may in writing direct GC/CM to proceed with the change, GC/CM shall promptly do so and the provisions of Part 8 shall apply.
- G. In no event shall GC/CM receive any payment or compensation that would cause the MACC to be exceeded nor shall GC/CM be entitled to receive any compensation for extra work whether partially or fully completed or simply proposed, unless such additional work is authorized by a written Change Order signed by Owner. GC/CM waives the right to receive any additional compensation for extra work that is not authorized by Change Order signed by GC/CM and Owner in compliance with Section 7.02. Nothing in this Section 7.01(G) shall limit GC/CM's rights under Part 8 if Owner in writing directs GC/CM to proceed as contemplated in Section 7.01(F).
- H. A/E and Owner will have authority to order minor changes in the Work not involving adjustment in the Contract Sum or extension of the Contract Time and not inconsistent with the intent of the Contract Documents. Such changes shall be affected by written order. GC/CM shall carry out such written orders promptly.

7.02 CHANGE IN THE CONTRACT SUM

A. General Application

1. The Contract Sum shall only be changed by a Change Order. GC/CM shall include any request for a change in the Contract Sum in its Change Order proposal.
2. If the cost of GC/CM's performance is changed due to the fault or negligence of Owner, or anyone for whose acts Owner is responsible, GC/CM shall be entitled to make a request for an equitable adjustment in the Contract Sum in accordance with the following procedure. No change in the Contract Sum shall be allowed to the extent: (a) GC/CM's changed cost of performance is due to the fault or negligence of GC/CM, a Subcontractor of any tier, or anyone for whose acts GC/CM is responsible; or, (b) the change is caused by an act of Force Majeure as defined in Section 3.05.
3. A request for an equitable adjustment in the Contract Sum shall be based on written notice delivered to Owner within seven (7) calendar days after the occurrence of the event giving rise to the request or if a Field Order, the date of issuance. For purposes of this Section 7.02, "occurrence" means when GC/CM knew, or in its diligent prosecution of the Work should have known, of the event giving rise to the request. If GC/CM believes it is entitled to an adjustment in the Contract Sum, GC/CM shall immediately notify Owner and begin to keep and maintain complete, accurate, and specific daily records. GC/CM shall give Owner access to any such records and, if requested shall promptly furnish copies of such records to Owner.
4. GC/CM shall not be entitled to any adjustment in the Contract Sum for any occurrence of events or costs that occurred more than seven (7) calendar days before GC/CM's written notice to Owner. The written notice shall set forth, at a minimum, a description of: the event giving rise to the request for an equitable adjustment in the Contract Sum; the nature of the impacts to GC/CM and its Subcontractors of any tier, if any; and to the extent possible the amount of the adjustment in Contract Sum requested. Failure to give such written notice shall, to the extent Owner's interests are prejudiced, constitute a waiver of GC/CM's right to an equitable adjustment.

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5. Within thirty (30) calendar days of the occurrence of the event giving rise to the request, unless Owner agrees in writing to allow an additional period of time to ascertain more accurate data, GC/CM shall supplement the written notice provided in accordance with subsections (3) and (4) above with additional supporting data. Such additional data shall include, at a minimum: the amount of compensation requested, itemized in accordance with the procedure set forth herein; specific facts, circumstances, and analysis that confirms not only that GC/CM suffered the damages claimed, but that the damages claimed were actually a result of the act, event, or condition complained of and that the Contract Documents provide entitlement to an equitable adjustment to GC/CM for such act, event, or condition; and documentation sufficiently detailed to permit an informed analysis of the request by Owner. When the request for compensation relates to a delay, or other change in Contract Time, GC/CM shall demonstrate the impact on the critical path, in accordance with Section 7.03C. Failure to provide such additional information and documentation within the time allowed or within the format required shall, to the extent Owner's interests are prejudiced, constitute a waiver of GC/CM's right to an equitable adjustment.
6. Pending final resolution of any request made in accordance with this section, unless otherwise agreed in writing, GC/CM shall proceed diligently with performance of the Work.
7. Any requests by GC/CM for an equitable adjustment in the Contract Sum and in the Contract Time that arise out of the same event(s) shall be submitted together.

B. Contract Sum Adjustment

The value of any Work covered by a Change Order, or of any request for an equitable adjustment in the Contract Sum shall be determined by one of the following methods:

1. mutual acceptance of a lump sum properly itemized and supported by sufficient substantiating data to permit evaluation;
2. unit prices stated in the Contract Documents or subsequently agreed upon;
3. cost to be determined in a manner agreed upon by the parties (accompanied by GC/CM's rough-order-of-magnitude estimate of probable cost) and a mutually acceptable fixed or percentage fee; or
4. as provided in Section 7.02(F) below.

C. Itemized Accounting

If GC/CM and Owner are unable to reach agreement as provided in Section 7.01(F) above, GC/CM shall keep and present, itemized in the categories of Section 7.02(F) and in such form as Owner may prescribe, an itemized accounting together with appropriate supporting data. In order to facilitate checking of such quotations, all proposals, except those so minor that their propriety can be seen by inspection, shall be accompanied by complete itemization of costs, including labor, equipment, material and subcontract costs. Labor, equipment and materials shall be itemized in the manner described in Section 7.02(F). When major cost items arise from Subcontractors of any tier, these items shall also be similarly itemized. Approval may not be given without such itemization. Failure to provide data within seven (7) calendar days of Owner's request shall constitute waiver of any Claim for changes in the Contract Time or Contract Sum. The total cost of any change shall be limited to the reasonable value, as determined by A/E (subject to Part 8). Unless otherwise agreed in writing by the Owner, the cost shall not exceed the lower of the prevailing cost for the work in the locality of the Project or the cost of the work in the current edition of R.S. Means Company, Inc., Building Construction Cost Data as adjusted to local costs and conditions. A/E and Owner may communicate directly with Subcontractors concerning costs of any Work not agreed to in writing by Owner and GC/CM.

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D. Credits and Allowances

The amount of credit to be allowed by GC/CM to Owner for a deletion or change that results in a net decrease in the Contract Sum shall be the largest of (1) the reasonable and prevailing value of the deletion or change, (2) the line item value in the Schedule of Values, or (3) the actual net cost as confirmed by A/E, subject to Part 8. When both additions and credits covering related Work or substitutions are involved in a change, the allowance for overhead and profit shall be figured on the basis of net increase, if any, with respect to that change.

If one or more components of the Work cannot be adequately designed or described prior to the preparation of the MACC, then by mutual agreement between GC/CM and Owner, GC/CM may include an allowance (the "Allowance") in GC/CM's Proposal for those components of the Work. The description and dollar amount of the Allowance Work shall be stated in the Schedule of Values. Such dollar amount shall be included in the MACC and used in determining GC/CM's Fee. When an Allowance item is adequately designated or described, Owner shall issue such information to GC/CM for pricing. The Costs of the Work for such allowance item shall be compared with the amount of the Allowance specified in the Schedule of Values, and if such Cost of the Work is less than the Allowance, the MACC shall by Change Order be reduced by the amount of the difference, and by a decrease of GC/CM's Percent Fee on the amount of the difference. If such Cost of the Work is more than the Allowance, the MACC shall by Change Order be increased by the amount of the difference, and by an increase of GC/CM's Percent Fee on the amount of the difference. There shall be no mark-up for General Conditions for adjustments in Allowance Work as provided for in this paragraph. Thereafter, such Work shall no longer be treated as Allowance Work.

E. Payments

Amounts not in dispute for such changes in the Work shall be included in Applications for Payment accompanied by a Change Order indicating the parties' agreement with part or all of such costs.

F. Pricing Components

The total cost of any Change in the Work or of any other increase or decrease in the Contract Sum, including a Claim, shall be limited to the following components:

1. Direct labor costs: These are the estimated or actual labor costs determined by the number of additional craft hours and the hourly costs necessary to perform the change in the Work. The hourly cost shall be based upon the following:
 - a. Basic wages and fringe benefits: The hourly wage (without markup or labor burden) and fringe benefits paid by GC/CM 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 and/or directly supervising the Change in the Work on the site. The premium portion of overtime wages is not included unless pre-approved in writing by Owner. Costs paid or incurred by GC/CM for vacations, per diem, subsistence, housing, travel, bonuses, stock options, or discretionary payments to employees are not separately reimbursable.
 - b. Workers' insurances: Direct contributions to the State of Washington as industrial insurance; medical aid; and supplemental pension by class and rates established by the Washington Department of Labor and Industries.
 - c. Federal insurances: Direct contributions required by the Federal Insurance Compensation Act; Federal Unemployment Tax Act; and State Unemployment Compensation Act.

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2. Direct material costs: This is an itemization, including material invoice, of the quantity and cost of additional materials reasonable and necessary to perform the change in the Work. The unit cost shall be based upon 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 except when approved in advance by Development Manager. Discounts and rebates based on prompt payment need not be included, however, if GC/CM offered but Owner declined the opportunity to take advantage of such discount or rebate.

3. Construction equipment usage costs: This is an itemization of the actual length of time that construction equipment appropriate for the Work will be used solely on the change in the Work at the site times the applicable rental cost as established by the lower of the local prevailing rate published in The Rental Rate Blue Book by Data Quest, San Jose, California, as modified by the AGC/WSDOT agreement or the actual rate paid to an unrelated third party as evidenced by rental receipts. Rates and quantities of equipment rented that exceed the local fair market rental costs shall be subject to Owner's prior approval. Total rental charges for equipment or tools shall not exceed seventy-five percent (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. If equipment is required for which a rental rate is not established by The Rental Rate Blue Book, an agreed rental rate shall be established for the equipment, which rate and use must be approved by Development Manager prior to performing the Work. If more than one rate is applicable, the best available rate will be utilized. The rates in effect at the time of the performance of the 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 to the same extent as the comparable Blue Book or fair market rate. 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. When the rate payable does not include fuel, lubricants, standard maintenance and servicing, such operating costs shall be reimbursed based upon actual costs. The rate for equipment necessarily standing by for future use on the Work shall be 50% of the rate established above. If equipment is required for which a rental rate is not established by Blue Book, an agreed rental rate shall be established for that equipment, which rate and use must be approved by Owner prior to performing the Work.

4. Subcontractor costs: These are payments GC/CM makes to Subcontractor for changed Work performed by such Subcontractors. Subcontractors' cost of changed Work shall be determined in the same manner as prescribed in this Section 7.02(F) and, among other things, shall not include consultant costs, attorneys' fees, or claim preparation expenses. Unless otherwise approved in advance by Owner, Subcontractors' total mark-up on Change Orders for overhead, or other charges in addition to the direct cost of changed Work they perform shall not exceed ten percent (10%), and profit shall not exceed five percent (5%), for each individual Subcontractor, and the mark-up shall be itemized in the invoices and supporting documentation submitted for payment. Subcontractor total mark-up for overhead, profit, or other charges in addition to the direct cost of all changed Work performed by sub-tier Subcontractors they retain shall not exceed five percent (5%).

5. Fee: This is the allowance ("Fee") for all combined overhead, profit and other costs, including but not limited to all office, home office and site overhead (including project manager, project engineer, other engineers, project foreman, estimator, superintendent and their vehicles), taxes (except for sales tax), employee per diem, subsistence and travel costs, warranty, safety costs, quality control/assurance, purchasing, small or hand tool (a tool that costs \$500 or less and is normally furnished by the performing contractor) or expendable charges, preparation of as-built drawings, impact on unchanged Work, Claim preparation, and delay and impact costs of any kind, added to the total cost to Owner of any Change Order, Claim or any other claim of any kind on this Project. No Fee shall be due, however, for direct settlements after Substantial Completion by Owner of Subcontractor claims. The amount of Fee for any Change in the Work shall be calculated by multiplying the agreed Percent Fee percentage for the MACC as specified in the

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GC/CM Agreement to the total cost of the authorized components of the Change in the Work as defined in this Section F.

7.03 CHANGE IN THE CONTRACT TIME

- A. The Contract Time shall only be changed by a Change Order. GC/CM shall include any request for a change in the Contract Time in its Change Order proposal.
- B. If the time of GC/CM's performance is changed due to an act of Force Majeure, or due to the fault or negligence of Owner or anyone for whose acts Owner is responsible, GC/CM shall be entitled to make a request for an equitable adjustment in the Contract Time in accordance with the following procedure. No adjustment in the Contract Time shall be allowed to the extent GC/CM's changed time of performance is due to the fault or negligence of GC/CM, a Subcontractor of any tier, or anyone for whose acts GC/CM is responsible.
1. A request for an equitable adjustment in the Contract Time shall be based on written notice delivered within seven (7) calendar days of the occurrence of the event giving rise to the request. If GC/CM believes it is entitled to adjustment of Contract Time, GC/CM shall immediately notify Owner and begin to keep and maintain complete, accurate, and specific daily records. GC/CM shall give Owner access to any such record and if requested, shall promptly furnish copies of such record to Owner.
 2. GC/CM shall not be entitled to an adjustment in the Contract Time for any events that occurred more than seventy-two (72) hours before GC/CM's written notice to Owner. The written notice shall set forth, at a minimum, a description of: the event giving rise to the request for an equitable adjustment in the Contract Time; the nature of the impacts to GC/CM and its Subcontractors of any tier, if any; and to the extent possible the amount of the adjustment in Contract Time requested. Failure to properly give such written notice shall, to the extent Owner's interests are prejudiced, constitute a waiver of GC/CM's right to an equitable adjustment.
 3. Within thirty (30) calendar days of the occurrence of the event giving rise to the request, unless Owner agrees in writing to allow an additional period of time to ascertain more accurate data, GC/CM shall supplement the written notice provided in accordance with this Section 7.03B with additional supporting data. Such additional data shall include, at a minimum: the amount of delay claimed, itemized in accordance with the procedure set forth herein; specific facts, circumstances, and analysis that confirms not only that GC/CM suffered the delay claimed, but that the delay claimed was actually a result of the act, event, or condition complained of, and that the Contract Documents provide entitlement to an equitable adjustment in Contract Time for such act, event, or condition; and supporting documentation sufficiently detailed to permit an informed analysis of the request by Owner. Failure to provide such additional information and documentation within the time allowed or within the format required shall, to the extent Owner's interests are prejudiced, constitute a waiver of GC/CM's right to an equitable adjustment.
 4. Pending final resolution of any request in accordance with this section, unless otherwise agreed in writing, GC/CM shall proceed diligently with performance of the Work.
- C. Any change in the Contract Time covered by a Change Order, or based on a request for an equitable adjustment in the Contract Time, shall be limited to the change in the critical path of GC/CM's schedule attributable to the change of Work event(s) giving rise to the request for equitable adjustment. Any Change Order proposal or request for an adjustment in the Contract Time shall demonstrate the impact on the critical path of the schedule. GC/CM shall be responsible for showing clearly on the Progress Schedule that the change or event: had a specific impact on the critical path, and except in case of concurrent delay, was the sole cause of such impact; and could not have been avoided by resequencing of the Work or other reasonable alternatives.

D. GC/CM may request compensation for the cost of a change in Contract Time in accordance with this Section 7.03D, subject to the following conditions:

1. The change in Contract Time shall reflect only the delay to the critical path solely caused by the fault or negligence of Owner or A/E;
2. Compensation under this section is limited to funds in excess of any that may have been paid pursuant to a change in the Contract Sum that contributed to this change in Contract Time, and GC/CM must substantiate the actual and direct costs attributable to delay ;
3. GC/CM shall follow the procedure set forth in Section 7.03B;
4. GC/CM shall establish the extent of the change in Contract Time in accordance with Section 7.03C.

7.04 SAVINGS

Any costs saved by GC/CM because of a change shall be deducted from sums payable to GC/CM by Owner.

PART 8 CLAIMS AND DISPUTE RESOLUTION

8.01 CLAIMS PROCEDURE

- A. If the parties fail to reach agreement on the terms of any Change Order for Owner-directed Work, or on the resolution of any request for an equitable adjustment in the Contract Sum or the Contract Time, GC/CM's only remedy shall be to file a Claim with Owner as provided in this section. If such Claim is not resolved under this Section 8.01, the Parties shall enter mediation under Section 8.02.
- B. GC/CM shall file its Claim within thirty (30) calendar days from the date of Owner's final offer made in accordance with Section 7.01.E, but in no event after the date of Final Acceptance.
- C. The Claim shall be deemed to cover all changes in cost and time (including direct, indirect, and impact) to which GC/CM may be entitled. It shall be fully substantiated and documented. At a minimum, the Claim shall contain the following information:
 1. A detailed factual statement of the Claim for additional compensation and time, if any, providing all necessary dates, locations, and items of Work affected by the Claim;
 2. The date on which facts arose that gave rise to the Claim;
 3. The name of each employee of GC/CM, Owner and/or A/E knowledgeable about the Claim;
 4. The specific provisions of the Contract Documents that support the Claim;
 5. The identification of any documents and the substance of any oral communications that support the Claim;
 6. Copies of any identified documents, other than the Contract Documents, that support the Claim;
 7. If an adjustment in the Contract Time is sought: the specific days and dates for which it is sought; the specific reasons GC/CM believes an extension in the Contract Time should be granted; and GC/CM's analysis of its Progress Schedule to demonstrate the reason for the extension in Contract Time;

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8. If an adjustment in the Contract Sum is sought, the exact amount sought and a breakdown of that amount into the categories set forth in, and the detail required by, Section 7.02; and
 9. A statement certifying, under penalty of perjury, that the Claim is made in good faith, that the supporting cost and pricing data are true and accurate to the best of GC/CM's knowledge and belief, that the Claim is fully supported by the accompanying data, and that the amount requested accurately reflects the adjustment in the Contract Sum or Contract Time for which GC/CM believes Owner is liable.
- D. After GC/CM has submitted a fully documented Claim that complies with all applicable provisions of Parts 7 and 8, Owner shall respond, in writing, to GC/CM as follows:
1. If the Claim amount is less than Fifty Thousand Dollars (\$50,000), with a decision within sixty (60) calendar days from the date the Claim is received; or
 2. If the Claim amount is Fifth Thousand Dollars (\$50,000) or more, with a decision within sixty (60) calendar days from the date the Claim is received, or with notice to GC/CM of the date by which it will render its decision and in such event, Owner will then respond with a written decision in such time as set forth in the notice.
- E. To assist in the review of GC/CM's Claim, Owner may visit the Project site, or request additional information, in order to fully evaluate the issues raised by the Claim. GC/CM shall proceed with performance of the Work pending final resolution of any Claim. Owner's written decision as set forth above shall be final and conclusive as to all matters set forth in the Claim, unless GC/CM follows the procedure set forth in this Part 8.
- F. Any Claim of GC/CM against Owner for damages, additional compensation, or additional time, shall be conclusively deemed to have been waived by GC/CM unless made in accordance with this section.

8.02 MEDIATION

If the parties have a claim or other dispute that cannot be resolved via direct discussion and negotiation, then the parties shall try in good faith to settle the dispute through mediation as a prerequisite to further legal action. If the mediation is unsuccessful, Owner and GC/CM shall request the mediator to issue a written notice stating that the mediation was unsuccessful and has been concluded. Upon receipt of such notice, a party may file and serve a lawsuit asserting its claim in the Superior Court of Washington for King County; provided that, if no such lawsuit is filed within one hundred twenty (120) calendar days of GC/CM's receipt of written notice from the mediator that the mediation was unsuccessful and has been concluded, then Owner's final decision rendered in accordance with Section 8.01(D) shall be final and binding upon Owner, GC/CM and its subcontractors of any tier. This contractual requirement cannot be waived except by express written consent signed by Owner and GC/CM.

8.03 CLAIMS AUDITS

- A. All Claims filed against Owner shall be subject to audit at any time following the filing of the Claim. Failure of GC/CM, or Subcontractors of any tier, to maintain and retain sufficient records to allow Owner to verify all or a portion of the Claim or to permit Owner access to the books and records of GC/CM, or Subcontractors of any tier, shall constitute a waiver of the Claim and shall bar any recovery.
- B. In support of Owner audit of any Claim, GC/CM shall, upon request, promptly make available to Owner the following documents:
 1. Daily time sheets and supervisor's daily reports;
 2. Collective bargaining agreements;

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3. Insurance, welfare, and benefits records;
4. Payroll registers;
5. Earnings records;
6. Payroll tax forms;
7. Material invoices, requisitions, and delivery confirmations;
8. Material cost distribution worksheet;
9. Equipment records (list of company equipment, rates, etc.);
10. Vendors', rental agencies', Subcontractors', and agents' invoices;
11. Contracts between GC/CM and each of its Subcontractors, and all lower-tier Subcontractor contracts and supplier contracts;
12. Subcontractors' and agents' payment certificates;
13. Cancelled checks (payroll and vendors);
14. Job cost report, including monthly totals;
15. Job payroll ledger;
16. Planned resource loading schedules and summaries;
17. General ledger;
18. Cash disbursements journal;
19. Financial statements for all years reflecting the operations on the Work. In addition, Owner may require, if it deems it appropriate, additional financial statements for three (3) years preceding execution of the Work;
20. Depreciation records on all company equipment whether these records are maintained by the company involved, its accountant, or others;
21. If a source other than depreciation records is used to develop costs for GC/CM's internal purposes in establishing the actual cost of owning and operating equipment, all such other source documents;
22. All nonprivileged documents that relate to each and every Claim together with all documents that support the amount of any adjustment in Contract Sum or Contract Time sought by each Claim;
23. Work sheets or software used to prepare the Claim establishing the cost components for items of the Claim including but not limited to labor, benefits and insurance, materials, equipment, Subcontractors, all documents that establish the time periods, individuals involved, the hours for the individuals, and the rates for the individuals, and
24. Work sheets, software, and all other documents used by GC/CM to prepare its bid.

- C. The audit may be performed by employees of Owner or a representative of Owner. GC/CM, and its Subcontractors, shall provide adequate facilities acceptable to Owner, for the audit during normal business hours. GC/CM, and all Subcontractors, shall make a good faith effort to cooperate with Owner's auditors.

PART 9 TERMINATION OF THE WORK

9.01 TERMINATION BY OWNER FOR CAUSE

- A. Owner may, upon seven (7) calendar days written notice to GC/CM and to its surety, terminate (without prejudice to any right or remedy of Owner) the Work, or any part of it, for cause upon the occurrence of any one or more of the following events:
1. GC/CM fails to prosecute the Work or any portion thereof with sufficient diligence to ensure Substantial Completion of the Work within the Contract Time;
 2. GC/CM is not paying its debts as they come due, is insolvent, adjudged bankrupt, makes a general assignment for the benefit of its creditors, or a receiver is appointed on account of its insolvency;
 3. GC/CM fails in a material way to replace or correct Work not in conformance with the Contract Documents;
 4. GC/CM fails to supply skilled workers or proper materials or equipment within ten (10) calendar days following request of Owner;
 5. GC/CM fails to make prompt payment due to Subcontractors or for labor without good cause;
 6. GC/CM disregards or fails to comply with laws, ordinances, rules, regulations, or orders of any public authority having jurisdiction; or
 7. GC/CM is otherwise in material breach of any provision of the Contract Documents.
- B. Upon termination, Owner may at its option:
1. Take possession of the Project site and take possession of or use all materials, equipment, tools, and construction equipment and machinery thereon owned by GC/CM to maintain the orderly progress of, and to finish, the Work;
 2. Direct and accept assignment of some or all of the Subcontracts pursuant to Section 5.20(D)(1); and
 3. Finish the Work by whatever other reasonable method it deems expedient.
- C. Owner's rights and duties upon termination are subject to the prior rights and duties of the surety, if any, obligated under any bond provided in accordance with the Contract Documents.
- D. When Owner terminates the Work in accordance with this section, GC/CM shall take the actions set forth in Section 9.02B, and shall not be entitled to receive further payment until the Work is finished and accepted by Owner.
- E. If (1) the unpaid balance of the Contract Sum exceeds (2) the cost of finishing the Work, including compensation for A/E's services and expenses made necessary thereby and any other extra costs or damages incurred by Owner in completing the Work, or as a result of GC/CM's actions, then Owner shall pay to GC/CM the lesser of (a) such excess or (b) the aggregate of the following (i) a payment for the Work properly completed by GC/CM for which GC/CM has not been paid, including applicable amounts of Percent Fee and Fixed Amount of Specified General Conditions and (ii) proven loss with respect to

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materials, equipment, tools and construction equipment and machinery. If the costs of finishing the Work as set forth in clause (2) above exceed the unpaid balance of the Contract Sum, GC/CM shall pay the difference to Owner. These obligations for payment shall survive termination.

- F. Termination of the Work in accordance with this section shall not relieve GC/CM or its surety of any responsibilities for Work performed.
- G. If Owner terminates GC/CM for cause and it is later determined that none of the circumstances set forth in Section 9.01A exist, then such termination shall be deemed a termination for convenience pursuant to Section 9.02.

9.02 TERMINATION BY OWNER FOR CONVENIENCE

- A. Owner may at any time, upon written notice, terminate (without prejudice to any right or remedy of Owner) the Work, or any part of it, for the convenience of Owner.
- B. Unless Owner directs otherwise, after receipt of a written notice of termination for either cause or convenience, GC/CM shall promptly:
 - 1. Stop performing Work on the date and as specified in the notice of termination;
 - 2. Place no further orders or subcontracts for materials, equipment, services or facilities, except as may be necessary for completion of such portion of the Work as is not terminated;
 - 3. Cancel all orders and subcontracts, upon terms acceptable to Owner, to the extent that they relate to the performance of Work terminated;
 - 4. Assign to Owner all of the right, title, and interest of GC/CM in all orders, agreements, and Subcontracts that Owner elects to assume;
 - 5. Take such action as may be necessary or as directed by Owner to preserve and protect the Work, Project site, and any other property related to this Project in the possession of GC/CM in which Owner has an interest; and
 - 6. Continue performance only to the extent not terminated.
- C. If Owner terminates the Work or any portion thereof for convenience, GC/CM shall be entitled to make a request for an equitable adjustment for its reasonable direct costs incurred prior to the effective date of the termination, plus the reasonable administrative and demobilization costs directly related to the termination, but shall not be entitled to any other costs or damages, whatsoever, provided however, the total sum payable upon termination shall not exceed the Contract Sum reduced by prior payments. GC/CM shall be required to make its request in accordance with the provisions of Parts 7 and 8.
- D. If Owner terminates the Work or any portion thereof for convenience, the Contract Time shall be adjusted as determined by Owner.
- E. In no event shall GC/CM have a claim for damages, lost profits, overhead, Percent Fee or otherwise on account of termination by Owner for convenience. GC/CM acknowledges that the termination provisions were mutually negotiated and agreed, and that those provisions, and the entirety of the Agreement, shall not be construed against the drafter.

PART 10 MISCELLANEOUS PROVISIONS

10.01 GOVERNING LAW

The Contract Documents and the rights of the parties herein shall be governed by the laws of the State of Washington. Venue shall be the Superior Court for Washington State in King County.

10.02 SUCCESSORS AND ASSIGNS

Owner and GC/CM respectively bind themselves, their partners, successors, assigns, and legal representatives to the other party hereto and to partners, successors, assigns, and legal representatives of such other party in respect to covenants, agreements, and obligations contained in the Contract Documents. Neither party shall assign the Work without written consent of the other, except that GC/CM may assign the Work for security purposes, to a bank or lending institution authorized to do business in the State of Washington. If either party attempts to make such an assignment without such consent, that party shall nevertheless remain legally responsible for all obligations set forth in the Contract Documents and the attempted assignment shall be void.

10.03 MEANING OF WORDS

Unless otherwise stated in the Contract Documents, words that have well-known technical or construction industry meanings are used in the Contract Documents in accordance with such recognized meanings. Reference to standard specifications, manuals, or codes of any technical society, organization, or association, or to the code of any governmental authority, whether such reference be specific or by implication, shall be to the latest standard specification, manual, or code in effect on the date for submission of bids, except as may be otherwise specifically stated. Wherever in these Drawings and Specifications an article, device, or piece of equipment is referred to in the singular manner, such reference shall apply to as many such articles as are shown on the drawings, or required to complete the installation. The word "including" means including but not limited to.

10.04 RIGHTS AND REMEDIES

No action or failure to act by Owner or A/E shall constitute a waiver of a right or duty afforded them under the Contract Documents, nor shall action or failure to act constitute approval of an acquiescence in a breach therein, except as may be specifically agreed in writing.

10.05 CONTRACTOR REGISTRATION

Pursuant to RCW 39.06, GC/CM shall be registered or licensed as required by the laws of the State of Washington, including but not limited to RCW 18.27.

10.06 TIME COMPUTATIONS

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

10.07 RECORDS RETENTION AND PRODUCTION

Upon request from Owner, GC/CM will promptly provide copies of all information, communications, and documents of any kind and from or between any parties related to the Project and performance of the Work. The wage, payroll, and cost records of GC/CM, and its Subcontractors, and all records subject to audit in accordance with Section 8.03, shall be retained for a period of not less than six (6) years after the date of Final Acceptance.

10.08 THIRD-PARTY AGREEMENTS

The Contract Documents shall not be construed to create a contractual relationship of any kind between: A/E and GC/CM; Owner and any Subcontractor; or any persons other than Owner and GC/CM.

10.09 ANTITRUST ASSIGNMENT

Owner and GC/CM recognize that in actual economic practice, overcharges resulting from antitrust violations are in fact usually borne by the purchaser. Therefore, GC/CM hereby assigns to Owner any and all claims for such overcharges as to goods, materials, and equipment purchased in connection with the Work performed in accordance with the Contract Documents, except as to overcharges that result from antitrust violations commencing after the Contract Sum is established and that are not passed on to Owner under a Change Order. GC/CM shall put a similar clause in its Subcontracts, and require a similar clause in its sub-Subcontracts, such that all claims for such overcharges on the Work are passed to Owner by GC/CM.

10.10 OUTREACH PLAN

Owner is committed to partnering with minority, small, veteran, disadvantaged and women owned businesses to design and build the Project. GC/CM shall coordinate and provide input to Owner and together actively develop and implement an overall approach to including such businesses in the performance of the Work (the "Outreach Plan"). GC/CM will commit to meaningful participation and quarterly reporting of firm for maximum participation in the Outreach Plan. The Outreach Plan is intended to include apprenticeship program participation. Owner has established an outreach participation goal of 8% of the MACC for the Project, and GC/CM has agreed to utilize good faith, diligent, and commercially reasonable efforts throughout the Project to achieve this goal.

10.11 CLAIMS FOR CONSEQUENTIAL DAMAGES

The GC/CM and Owner waive Claims against each other for consequential damages arising out of or relating to this Agreement. This mutual waiver includes:

.1 damages incurred by the Owner for rental expenses, for losses of use, income, profit, financing, business and reputation, and for loss of management or employee productivity or of the services of such persons; and

.2 damages incurred by the GC/CM for principal office expenses including the compensation of personnel stationed there, for losses of financing, business and reputation, and for loss of profit except anticipated profit arising directly from performed Work.

This mutual waiver is applicable, without limitation, to all consequential damages due to either party's termination of the Agreement. However, nothing contained in this Section shall be deemed to preclude an award or recovery of (i) liquidated damages, when applicable, in accordance with the requirements of the Contract Documents, (ii) any damages, whether consequential or otherwise, covered under the terms of any insurance policies, or (iii) any damages, whether consequential or otherwise, for which a party is obligated to indemnify the other under the terms of this Agreement or applicable law (including, without limitation, applicable theories of equitable indemnity).

Exhibit O
Construction Agreement

GENERAL CONDITIONS FOR GC/CM AGREEMENT

Exhibit 1
Approved GC/CM Personnel Relocation Policy
(to attach)

Exhibit O
Construction Agreement

Exhibit 1 to General Conditions for GC/CM Agreement

Relocation Program Policy and Agreement



A JOINT VENTURE

Exhibit O Construction Agreement

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Exhibit O Construction Agreement

Congratulations on your new assignment!

Moving to a new location can be both an exciting and complicated experience. Clark's goal is to make your move seamless from start to finish. This Relocation Program Policy and Agreement will help you navigate through the relocation process quickly and easily.

Our relocation program includes professional assistance and financial support. To help facilitate the relocation process, we have retained the services of CapRelo, a global relocation management company. Clark encourages you to make full use of the programs offered to you by CapRelo. In order to qualify for our relocation benefits, you must adhere to the guidelines in this policy.

Exhibit O

Construction Agreement

1.0 Purpose

The intent of this policy is to assure that relocation, made at the request of Clark, is planned and executed in an expeditious and cost-effective manner to minimize disruption and inconvenience to the employee and his/her family.

1.1 Effective Start Date of Policy

This policy is effective August 3, 2015 and supersedes any Clark relocation policies issued prior to this date.

1.2 Eligibility

This policy is applicable for full time, salaried employees. The relocation of an employee requires the advance approval of a Clark Regional Executive Officer or Executive Vice President. Relocation is administered by Clark's Human Resources Department.

If two or more employees living in the same household relocate and share a residence at the new or existing location, only one employee is eligible for the relocation benefits provided in this policy.

A spouse or domestic partner presently living with the relocating employee and who intends to move to the new location is eligible for travel and living reimbursement when applicable. Children and parent(s) residing with the relocating employee are also eligible for certain reimbursements. Other dependent family members intending to move with the relocating employee must receive advanced approval for reimbursement from Clark's Human Resources Department.

Eligibility for relocation assistance is based upon the following requirements:

- The distance between the former residence and the new place of employment must be at least 50 miles more than the distance between the former residence and former workplace. **The employee must meet this IRS 50-mile requirement in order to be eligible for tax deductibility of certain eligible relocation expenses.**

1.3 Repayment Terms

The Relocation Repayment Agreement stipulates that if an employee voluntarily terminates his/her employment within one (1) year of the effective date of the relocation, the employee is required to reimburse Clark for the relocation expenses.

NOTE: to the extent that Relocation Expenses are reimbursed to C-L by an employee pursuant to the Repayment Terms of the relocation policy, the amount of said reimbursement shall be deducted from the Cost of the Work charged to the Washington State Convention Center under the General Contractor/Construction Manager Agreement for the Washington State Convention Center Addition Project.

1.4 Relocation Services

To facilitate the relocation process, Clark has retained the services of CapRelo, a global relocation management company. An employee who is relocating will be assisted by a

Exhibit O Construction Agreement

CapRelo counselor. Clark encourages employees to make full use of the programs offered by CapRelo.

CapRelo's Relocation Counselor will:

- Review the Clark relocation policy benefits and the scope of relocation services available
- Discuss specific relocation related needs, concerns, and personal preferences
- Initiate in a timely manner:
 - Destination area counseling
 - Delivery of Clark relocation policy information, program guidelines, and expense reimbursement request forms with instructions
 - Delivery of a relocation package with information about the destination area, tailored to specific needs or interests including housing, schools, shopping, and amenities
 - Introduction and referral to relocation-trained real estate agent(s) to assist with purchasing in the destination area
 - If applicable, Home Marketing Assistance and the Buyer Value Option (BVO) home sale program including real estate agent referrals for listing the employee's current residence
- Coordinate:
 - Contact throughout the relocation for quality assurance, questions, and assistance with any relevant issues
 - Household goods pre-move survey, including arrangements for packing, loading and delivery
 - Home finding trip and area orientation tour
 - Receipt, audit and approval for payment of all relocation related expense reimbursement requests, tax coding of expenses and year-end relocation tax reporting
 - If applicable, events relating to the sale of the departure home with events leading to the purchase of the new home
 - If applicable, a timely tour of available properties to purchase in the new area

1.5 Expense Reimbursement

Relocation-related expenses are reimbursed or paid on the relocating employee's behalf in accordance with the provisions of this policy. Requests for reimbursement of eligible relocation expenses must be submitted to CapRelo on the appropriate Relocation Expense Report distributed by CapRelo. Scanned or original receipts are required.

Exhibit O Construction Agreement

1.6 Relocation Benefits Summary

Relocation Benefits	
Home Owner Services	<ul style="list-style-type: none"> • Home Marketing Assistance Program and Buyer Value Option Home Sale Program provided by CapRelo • Subject to conditions, CapRelo purchases the home at the price offered by a third party with no deductions for real estate commission or other normal and customary
Trip to Search for a New Residence	<ul style="list-style-type: none"> • One trip for a maximum of five days for employee and one family member • CapRelo provides assistance in selection of local agents and other resources
Purchasing a Home	<ul style="list-style-type: none"> • Benefits and process administered by CapRelo • Clark reimburses normal and customary closing costs up to 3% of the loan amount to include loan origination fees of up to 2% of the loan amount
Temporary Living	<ul style="list-style-type: none"> • Up to 30 days for renters and 60 days for homeowners
Out of Town Rent	<ul style="list-style-type: none"> • If owned home is a hardship to sell, the local rent will be reimbursed for the duration of the assignment.
Final Move Expenses	<ul style="list-style-type: none"> • Reasonable one way travel expense for employee and immediate family • Includes travel, meals and lodging en route
Renter Services	<ul style="list-style-type: none"> • Assistance in locating a rental unit at the destination location • Breaking a lease – up to 3 months' rent
Household Goods Shipment	<ul style="list-style-type: none"> • Process managed by CapRelo • Packing, shipment and delivery of household goods • Crating as needed • Partial unpacking • Valuation Protection of up to \$100,000 • Shipment of up to 2 automobiles, depending on family size, if move distance is > 500 miles • Debris removal
Household Goods Storage	<ul style="list-style-type: none"> • Up to 30 days for renters and 60 days for homeowners
Miscellaneous Allowance	<ul style="list-style-type: none"> • \$2000 for a single employee • \$4000 for an employee with family
Tax Liability Assistance	<ul style="list-style-type: none"> • All taxable relocation expenses are "grossed-up" for federal, state and FICA taxes
Time Off for Relocation	<ul style="list-style-type: none"> • Employee must arrange with new manager

Exhibit O Construction Agreement

1.7 Home Owner Services

Home Marketing Assistance Program

Clark requires that employees utilize the services of CapRelo to list their existing home for sale. CapRelo specializes in the purchase and resale of transferees' homes. Assistance from CapRelo is provided at **NO COST** to the employee in order to expedite the sale of the employee's current residence. Clark pays all administrative fees, in addition to certain expenses related to the purchase, management and resale of the employee's current residence. CapRelo administers a Home Marketing Assistance Program which assists in the sale and closing of the home. The program is designed specifically for the employee and includes the development of a marketing strategy formulated to enhance the saleability of the home. CapRelo will also arrange for two Brokers' Market Analysis in order to establish the home's current Anticipated Sale Price. CapRelo has pre-screened real estate companies nationwide to identify those that are the most successful at selling homes for relocating families. When feasible, CapRelo will recommend two (2) real estate firms who understand the time constraints of the relocation process and are knowledgeable about the local real estate market. The employee will interview the real estate agents and select the one who can best market their current residence.

Property Eligibility

In order to be eligible for Home Sale Assistance from CapRelo, an employee's home must be the primary residence, titled in the employee's name, or jointly titled with the employee's spouse/domestic partner. Please discuss any other ownership arrangements with the Relocation Counselor.

Eligible types of housing:

- Single-family homes
- Townhouses and condominiums

Excluded types of housing:

- Cooperative apartments
- Mobile homes
- Income producing properties
- Multi-family dwellings

Also excluded are:

- Properties :
 - With land in excess of that typical for the neighborhood
 - To which the employee does not have clear title
 - With hazardous materials such as asbestos, mold infestation, etc.
 - With artificial stucco
 - That cannot obtain insurance at standard commercial rates
 - That do not comply to Fannie Mae standards for financing

The Home Marketing Assistance Program includes the following steps:

Listing Agreement

In order to qualify for the home sale benefits, a relocation "exclusion" clause **MUST** be inserted as a rider to the listing agreement. This clause reserves an employee's right to

Exhibit O Construction Agreement

accept CapRelo's offer without having to pay a commission. CapRelo's relocation counselor provides the listing clause language to the employee and/or the listing broker.

The following clauses **MUST BE TYPED** into the body of the Listing Agreement or **CAN** be included as an attachment:

"To sell this property directly to Capital Relocation Services, LLC, (CapRelo) at any time and in such event to cancel this agreement with no obligation for commission or continuation of listing thereafter, or"

"To assign any acceptable written offer hereunder to Capital Relocation Services, LLC, (CapRelo), for closing, with payment of commission being the obligation of Capital Relocation Services, LLC, (CapRelo) the commission being earned at successful closing of the home."

Employees are encouraged to list their home maintaining a listing price within $\pm 7\%$ of the anticipated sales price. CapRelo's Relocation Counselor works with the employee to strategize during each step of this period. **Employees should notify CapRelo of every offer received. Under no circumstances should the employee sign the offer to purchase.**

Typically, CapRelo accepts the information provided in the buyer's general home inspection but they reserve the right to order other inspections they deem necessary. In addition, the employee's buyer is provided with a Radon Service Agreement. This agreement entitles the buyer to an EPA approved mitigation contractor. The Radon Service Agreement is provided as an extended service at no cost to the employee or the buyer.

The employee is responsible for delivering a good and marketable title to CapRelo – one that is free and clear and involves no impediment to a sale. The employee is also responsible for disclosing any major defects, such as a basement which tends to flood or leak, a leaking roof, mold infestation, etc. Non-disclosure of a defect may result in financial and legal liability on the employee's part as the seller.

Employees are responsible for the expenses of the home until a bona fide buyer is found and a successful home closing has taken place.

Buyer Value Option (BVO) Home Sale Program

Through the BVO program, Clark pays all reasonable and customary closing costs associated with the sale of the employee's home as follows:

Real estate broker's commission up to 6% of the sales price

- Closing costs including:
 - Escrow Fees
 - Recording Fees
 - Notary Fees
 - Title Search
 - Tax Stamps
 - State or Local Transfer Tax
 - Deed Preparation
 - Title Insurance
 - Survey Fees
 - Attorney Fees
 - Homeowner's warranty paid for by seller up to \$350
- Other locally required seller's closing expenses in the sale of the home

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Once a satisfactory sale is negotiated, CapRelo's Relocation Counselor instructs the employee regarding BVO procedures.

Offer Acceptance

It is imperative that the employee review any offer to purchase the property with the CapRelo relocation Counselor prior to accepting or agreeing to any offer. **To maintain eligibility for the BVO program, the employee must NOT sign any offer to purchase or accept any earnest money deposit.** CapRelo will review the terms of the offer to ensure that there are no objectionable sale contingencies and that the buyer is pre-qualified to obtain a mortgage. If the offer is deemed acceptable, CapRelo will:

- Send a sale authorization to purchase the property to be signed and returned to CapRelo
- Send an equity payment when the property is vacated or the date the contract is accepted, whichever is later
- Enter into a new listing agreement with the listing broker and execute a separate sales agreement with outside purchaser
- Assume the financial responsibilities of ownership upon vacate date
- Pay normal and customary closing costs with outside purchaser

Duplicate House Expenditures

Clark will provide protection from owing duplicate housing expenditures because of relocation by reimbursing the employee for the lesser of the two payments for a period of up to 60 days. These expenditures include interest, taxes, and insurance, but not the principal portion of the payment (the outstanding loan balance is reduced each month with the employee's payment). Reimbursement for duplicate house expenditures beyond 60 days requires the advance approval of Human Resources.

Vacating the Residence

The employee is responsible for continuing to pay all carrying costs (mortgage payments, insurance, utilities, lawn, pool and other maintenance) until final move out. Employees are to check with the insurance agent prior to canceling the homeowner's policy to avoid a lapse in coverage. The insurance agent should send any refund directly to the employee. Properties must be left "broom clean" to prevent any further liability or costs to the employee.

Obtaining Equity

Once CapRelo processes the home purchase paperwork, the residence is vacated and all contingencies are satisfied, CapRelo provides the full equity (defined as the buyer value contract price less the amount of outstanding mortgage balance(s), liens, encumbrances, claims, charges for repairs, buyer concessions, pro-rated taxes or interest and other charges and assessments).

Equity Advance

Once CapRelo processes the home purchase paperwork and the home has not yet been vacated, CapRelo will provide up to 95% of the equity for the purchase and closing of the new home. A signed copy of the new home purchase contract showing closing date is required. Upon vacating the home, the remaining 5% will be issued.

Exhibit O

Construction Agreement

Purchasing a Home

If the employee owned their home in the previous location, normal and customary non-recurring closing costs associated with the purchase of a new home is reimbursed if the employee purchases a home at the new location within twelve (12) months from the date of transfer. Reimbursement will be made for all normal and customary closing costs that are normally paid by the buyer up to a value of 3% of the new mortgage loan amount. This includes, but is not limited to, the following:

- Appraisals
- Property survey
- Title search
- Title insurance, if required by the mortgagor, to the amount of the mortgage
- Mortgage recording tax and filing fee
- Usual and customary legal fees incurred in connection with the purchase
- Tax stamps
- Pest or termite inspection fee
- State transfer tax, if applicable to buyer
- Lender Fees
- Loan origination fee up to 2% of the loan amount

1.8

Renter Services

Breaking a Lease

Employees who currently rent are provided the same relocation benefits as homeowners, with the exception of new home purchase assistance.

Employees are provided with the following assistance when required:

- Termination of a lease is expected to be negotiated with the landlord in advance to minimize or avoid penalties. In the event of a lease penalty, Clark reimburses an amount **not to exceed three (3) months' rent**. *(The employee is required to submit sufficient documentation, including but not limited to, a copy of their lease as well as a receipt or letter from the landlord acknowledging the penalty amount.)* Landlord at the new location should be asked to include a lease cancellation provision as protection in the event of future relocation.

Exhibit O Construction Agreement

1.9 Destination Assistance

Assistance Finding a New Residence

Clark provides destination services through CapRelo, to be used concurrently with the other relocation services provided. As with all of the relocation programs, Destination Services are initiated through CapRelo's Relocation Counselor.

The Relocation Counselor will:

- Discuss individual housing and lifestyle preferences
- Provide information on location demographics, real estate, schools, child, medical and elder care, extracurricular activities, recreation and cultural activities and any other questions or concerns
- Send a relocation packet that includes the information outlined above.
- Make referrals to real estate specialist(s), who assist in renting or purchasing a home in the new assignment area. If the employee chooses to use a realtor outside of CapRelo's program, he/she must notify CapRelo and Clark's Human Resources Department.

Rental Assistance

If the employee is seeking a rental property, CapRelo provides rental assistance.

The Relocation Counselor will:

- Discuss and review the employee's requirements
- Identify general area and property preferences
- Coordinate/provide area information such as housing, schools, shopping and amenities
- Refer local service providers and/or on-line resources to provide detailed information about available properties and rental communities in destination area

Trip to Search for a New Residence

- The employee and one family member are permitted to take one trip of five days. Travel arrangements MUST be made in accordance with Clark's Travel Policy. Receipts/invoices must be submitted to CapRelo.
- Travel expenses will be reimbursed in accordance with Clark's Business Expenditure Policy. Receipts/invoices must be submitted to CapRelo.

1.10 Transition Assistance

Temporary Living

Employees and their families who move to the new location before their new residence is ready are reimbursed for living expenses up to thirty(30) days for renters and sixty (60) days for homeowners. Additional temporary living assistance requires approval from the Regional Executive Officer or Chief Administrative Officer.

Reimbursement is provided as follows:

- Reasonable and customary expenses for lodging accommodations in a furnished apartment
- Meal expenses are not covered

Exhibit O Construction Agreement

PLEASE NOTE: Clark provides temporary living expenses to employees who must relocate prior to selling their home at the point of origin in order to eliminate duplicate expense to the employee/family. These temporary living expense reimbursements cease once the expenses at the departure location are eliminated, even if the employee has not yet moved into their new home.

Travel Related to Relocation

Clark provides reimbursement for travel and living expenses during the move to the new location in accordance with Clark's Travel and Business Expenditure policies. Reimbursement includes:

- Coach airfare when the distance to the new location exceeds 500 miles
- If the distance to the new location is less than 500 miles, reimbursement is made for mileage at the current Clark travel mileage rate provided the most direct route is taken and a minimum of 400 miles is driven per day
- Rental cars are permitted only during the time period personal automobiles are being shipped if applicable. The cost of fuel is not reimbursed in the final move
- Reasonable and customary expenses for lodging accommodations while household goods are being loaded and delivered and/or in transit from old location to new location
- Reasonable meals in accordance with Clark's Travel and Business Expenditure policies

1.11 Miscellaneous Allowance

In order to assist with the incidental expenses incurred during relocation, such as curtains, drapes, car registration, mover tips, house cleaning, etc., Clark provides a miscellaneous allowance of \$2,000 for single employees and \$4,000 for employees with a family. The allowance is automatically processed by CapRelo subsequent to the employee's initiation into the relocation program. Receipts are not required for this allowance.

1.12 Moving Expenses

Household Moving Expenses

CapRelo assists in scheduling the movement of household goods with one of Clark's approved transportation companies. Do not independently contact a moving company for this service. CapRelo's Relocation Counselor will select a transportation company from the Clark approved list of carriers to ensure moving arrangements are completed.

Weight Allowances

- 18,000 lbs. plus 1,000 lbs. per family member

The transportation company is responsible for the following:

- Packing of the employee's goods at the old residence and partial unpacking (placement of furniture, unloading items into the appropriate rooms and opening boxes) at the new residence. The movers will not assist with unpacking boxes, but can return within 30 days to do a one-time debris pick up of boxes and packing material. Crating is approved if necessary
- Normal expenses for disconnection and preparation of household appliances at the old residence
- Expenses incurred to move normal household goods. Moving expenses are not paid for items where bulk and weight make moving impractical
- Insurance coverage up to \$100,000. Employee may purchase additional insurance

Exhibit O Construction Agreement

- Up to 30 days of storage for renters and 60 days for homeowners
- Clark will reimburse for transporting up to one personal automobile for an individual and two personal automobiles for an individual with a family if move distance exceeds 500 miles
- Debris removal
- Coordinate physical move and be responsible for arranging the packing, loading and delivery dates

The following services are NOT included:

- Shipment of boats, trailers, motorcycles, airplanes, all-terrain vehicles, farm equipment, firewood, etc.
- Assembly or disassembly of waterbeds, chandeliers, satellite dish(s), swing sets, gym sets and outdoor sheds
- Overtime charges for weekend or holiday moves
- Gratuities for packers and/or movers
- Other items outside the description of "normal household goods"

PLEASE NOTE:

- Valuables, such as deeds, coin and stamp collections, jewelry and precious stones, should not be transported via the household goods carrier. The employee should make provisions for safe transport of these items. These items are not insured through Clark's insurance carrier.
- Clark is not liable for loss or damage to household goods or personal effects while in transit. Claims of damage or loss must be settled between the employee and the household goods carrier. The Relocation Counselor will assist with this process. Should an employee choose to have the moving company transport any antiques, fine art or unique items, they require specific itemization on the mover's inventory. An appraisal, at the employee's expense, may be required before the move, to determine whether or not the goods are insurable or if additional insurance is necessary. The employee is responsible for the cost of any additional liability coverage.

1.13 Taxation Rules and Allowance

Under the Omnibus Budget Reconciliation Act of 1993, the only relocation expenses that are **not** considered income to the employee are the transportation of household goods, including 30 days of storage, and the expenses incurred during the final family move (with the exception of meals and mileage expense over the IRS rate). Those relocation expenses that are not deductible and made on behalf of the employee are defined as wages and, therefore, are considered taxable income by the IRS.

To assist employees with the additional tax liability on taxable relocation expenses, Clark provides tax assistance (a "gross-up") on certain expenses considered taxable income.

This gross-up is based on the employee's Clark earnings, tax filing status, number of dependents and marginal tax rate. Clark pays the applicable taxing authorities (i.e. Federal, State and FICA) on the employee's behalf and these payments are reflected on their paystubs as well as on their Form W-2.

In January of the year following the relocation, employees receive a tax packet from CapRelo including a Relocation Tax Report reflecting the total amount of relocation reimbursements provided by CapRelo and Clark.

Exhibit O Construction Agreement

It is suggested that employees consult with their tax advisor to review the tax implications of their relocation.

1.14

Tax Treatment Table

Some taxable relocation items are not eligible for relocation gross-up. The table below outlines which relocation payments will be tax assisted.

Provision	Taxable	Excludable	Grossed-Up
Miscellaneous Relocation Allowance, (curtain allowance)	✓		Yes
Independent Home Sale (Not through Buyer Value Option Program)	✓		No
Trips to find a new residence	✓		Yes
New Home Closing Costs	✓		Non-deductible
Temporary Living	✓		Yes
Household Goods Move		✓	
Storage	✓	First 30 days only	After 30 Days
Final Move Trip	Meals	Except Meals	Meals Only

1.15

Policy Exclusions

The following are expenses excluded from reimbursement under this policy:

- Additional tax liability or services provided by a tax expert as a result of "gross up" tax payments made by Clark.
- Expenses incurred for a relocation commenced without the direct authorization of the Regional Executive Officer or Chief Administrative Officer.
- Any expenses exceeding the limits set forth in this Policy, specifically including but not limited to, the sale or purchase of property incurred in excess of the limits established by the Policy.
- Work assignments requiring relocation for an expected duration of less than 12 months (in accordance with Internal Revenue Service requirements) will be considered temporary duty, and not subject to the terms of this policy.

Exhibit 2

Unauthorized and Non-Reimbursable Expenses, and Travel Reimbursement

Lodging: Reimbursed at actual costs, but not to exceed 150% of the Lodging per diem rates set forth in Per Diem Rates chart published by the Washington State Office of Financial Management (rates as of October 1, 2016 appear on the next page of this Exhibit), as the same may be later amended by the Washington State Office of Financial Management ("OFM").

Meals: Reimbursed at actual cost (including tax and tip) up to the daily maximum of One Hundred Dollars (\$100.00) per person (OFM chart on the next page of this Exhibit is not applicable to Meals). Alcoholic beverage expenses are not reimbursable.

Transportation:

1. Airfare: Reimbursed at actual cost for coach or economy class, including baggage fees if applicable. The cost of an upgrade to first class is not reimbursable.
2. Taxis/transit: Reimbursed at actual cost, including taxes and tip, for project-related travel. Towncars and limousines are not reimbursable unless available at verifiable lower cost than other taxi/transit options. Excessive tips are not reimbursable.
3. Rental cars: Reimbursed at actual cost for economy, compact, or full-size vehicles. Add-ons (e.g. insurance, GPS) are not reimbursable.

Additional examples of non-reimbursable items:

1. Lodging expense incurred through Airbnb, VRBO, or equivalent platforms.
2. Any personal travel expenses, if business and personal travel are combined.
3. Expenses for individuals other than the traveler (e.g. a shared meal with a colleague).
4. Entertainment expenses (e.g. in-room movie rentals).
5. Valet services (unless parking is only available via valet).

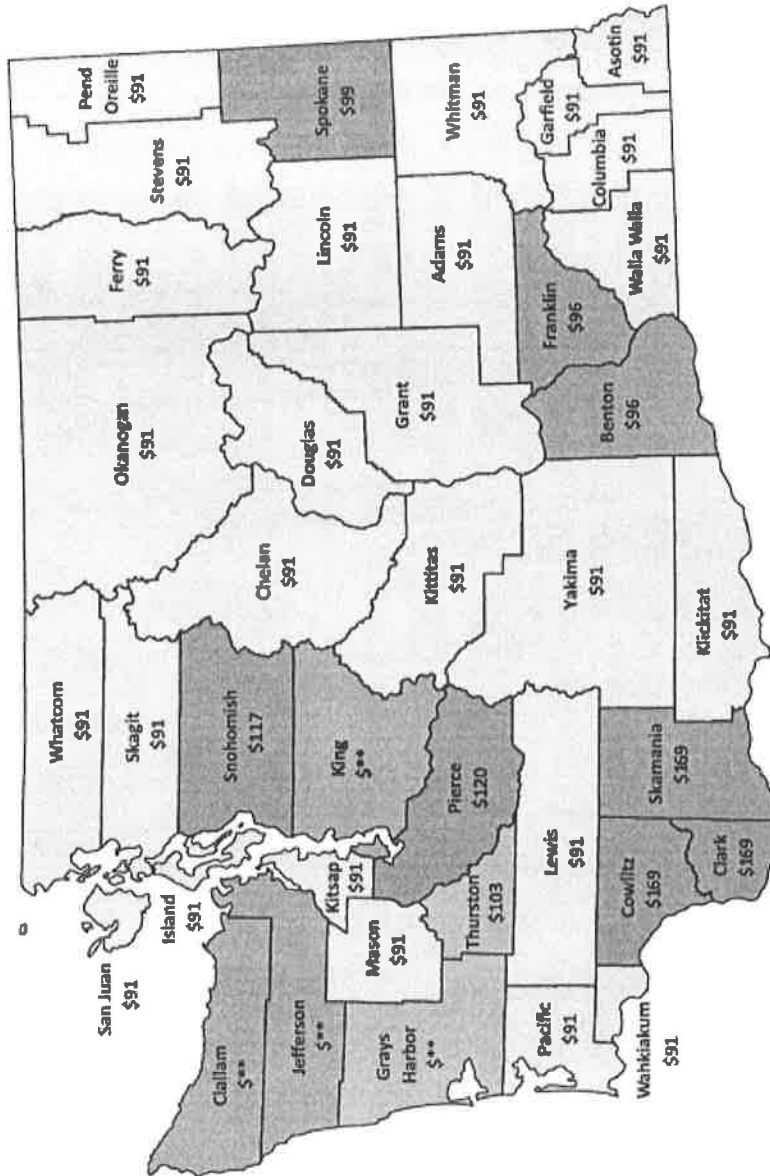
This list is not comprehensive. GC/CM is expected to use good judgment when incurring costs to the Project.

Additional notes: receipts are expected for all expenses but required only for expenses of \$50 and above.

Exhibit O Construction Agreement

Exhibit 2 (cont.)

Per Diem Rates - As of October 1, 2016



Meal Rates				
TOTAL	B	L	D	
☐	\$51	\$13	\$15	\$23
▒	\$59	\$15	\$18	\$26
▓	\$64	\$16	\$19	\$29
■	\$69	\$17	\$21	\$31
■	\$74	\$19	\$22	\$33

\$ Maximum Lodging Rate
 ** Seasonal Lodging Rates (see table)

** Seasonal Lodging Rates for Counties:

Clallam & Jefferson	07/01 - 08/31	\$144
	09/01 - 06/30	\$102
Grays Harbor	07/01 - 08/31	\$123
	09/01 - 06/30	\$94
King	06/01 - 08/31	\$240
	09/01 - 10/31	\$205
	11/01 - 05/31	\$167

POV Mileage Rate
 The privately owned vehicle mileage reimbursement rate is \$0.540 per mile. (effective 1/1/16)

For Out-of-State Per Diem Rates, refer to the GSA website at: <http://www.gsa.gov>. To get the total meal and incidental expense rate breakdown of individual meal allowances, refer to the State Administrative and Accounting Manual (SAAM), Subsection 10.40.10.c

EXHIBIT P

EXHIBIT Q

C/L Work Zone

Exhibit P

DRAFT PROJECT PLAN

8/30/2017

Washington State Convention Center, CPS - 9th avenue Ramp - Job #113572

SAFETY MANAGEMENT PLAN

This document references phase specific terminology, see attached 9th Ave Ramp Utilization Plan and Site Access Procedures

I. PROJECT SPECIFIC RISKS

1) General:

- a) All work activities shall be subject to the rules and standards described in the Clark/Lewis Safety Manual, DOSH WAC 296, and OSHA CFR 1926.

2) Access Work:

- a) The CPS is a restricted access facility, ALL entrants are required to have a KCM issued clearance ID on their person, at all times, when entering and operating in the facility (excluding the passenger platform during the facilities operational times).
- b) Entry to the site will be through the Olive Way bus entry point, at the North-West corner of the site, near the intersection of 9th avenue and Olive Way. Entry permission will be required for each entry into the facility during phase 1 and 2.
 - i) During phase 3 and beyond this entrance will no longer be used by bus traffic and, therefore, will no longer be controlled by KCM. This will continue to be the main construction entrance. Access will be controlled by the Clark/Lewis team.

- 3) **Public Safety** – The Washington State Convention Center addition project is surrounded by active public streets. Public protection will be pre planned into all operations.

a) Perimeter Protection

- i) **Mitigation plan:** Project work will be fenced off from the public. Barriers/fencing will be placed around the work area when working inside the CPS to maintain separation of worker and active bus traffic. Additional barriers will be placed where shoring lines run near active road ways and anywhere traffic possess excessive risk to the public or employees. Work done outside of the fenced project footprint will be preplanned and coordinated with applicable parties.
- ii) **Responsible Manager:** Superintendent – James O'Donnell
Safety Manager – Troy Brinkerhoff

b) Subcontractor and Material Delivery traffic in and out of the site

- i) **Mitigation Plan:** Clark/Lewis will implement a site protection policy ensuring gates to the site are closed at all times, or attended by at least one employee. Subcontractors will be responsible for the following
 - 1. Compliance to the Clark/Lewis AIC trucking program
 - 2. Maintaining preplanned trucking routes

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3. Adequate gate operation, flagging, and traffic control during enter/exit of the site.
 4. All deliveries must be scheduled at least 24-hrs in advance and the schedule must be followed precisely. All deliveries must be coordinated and monitored by the delivery coordination manager.
- ii) **Responsible Manager:** Superintendent – James O’Donnell
Safety Manager – Troy Brinkerhoff
- 4) **Excavations and Trenches:**
- a) **Mitigation Plan:**
- i) All trenches and excavations over 4-ft in depth will be required to complete a trench and excavation review checklist as per the C/L safety manual.
 - ii) A competent person shall perform daily inspections and complete any documentation required.
 - iii) Fall protections shall be used when working around any trench or excavation of 6-ft or deeper.
 - iv) Ladders for access and shall be accessible by no more than 25-ft of lateral movement by anyone working within.
 - v) Trenches over 20-ft in depth shall be designed by a registered Professional Engineer
 - vi) In addition to these items, all trenching and excavations shall follow all local, federal, and Clark/Lewis policies.
 - vii) **Responsible Manager:** Superintendent – James O’Donnell
Safety Manager – Troy Brinkerhoff
- 5) **Contaminated Soils and Spills:**
- a) **Mitigation Plan:**
- i) **Spills:**
 1. Have approved spill response kits and training in place prior to starting work.
 2. If spills occur, they must be isolated/contained to prevent contaminating the surrounding areas, utilities, waterways, or any other environmental impacts.
 3. To ensure proper response to any spill all SDS sheets will be current and accessible.
 - ii) **Contaminated Soils:**
 1. Determine amounts of contamination prior to work commencing.
 2. Develop a mitigation plan which will be approved by the Regional Safety and Health Coordinator.
 3. All necessary and required federal, state, and local permits shall be obtained and submitted by the environmental subcontractor with copies given to Clark for the project files.
- b) **Responsible Manager:** Superintendent – James O’Donnell

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Safety Manager – Troy Brinkerhoff

6) **Live Utilities:**

- a) Live sewer, gas, storm drain, and Electrical run through the jobsite.
- b) **Mitigation Plan:** Prior to any work below grade, all utilities, both public and private, shall be located. All utilities shall be marked and communicated to all parties involved in the work. Each subcontractor must obtain their own verification of utilities. As-builts will be reviewed as a secondary measure to protect from utility strike. Hand dig procedures will be used around any live utilities.
- c) **Responsible Manager:** Superintendent – James O'Donnell
Safety Manager – Troy Brinkerhoff

7) **Overhead Hazards:**

- a) In addition to live utilities, there are existing traction bus lines throughout the CPS facility that have been de-energized. As the project progresses, these lines will be removed.
- b) **Mitigation Plan:**
 - i) If these lines exist in proximity to the work being done, verify with KCM that they have indeed been de-energized before performing work that could pose a hazard (i.e. hoisting, excavator or equipment movements, etc.).
 - ii) De-energized lines will pose additional risks, such as entanglement with hoisted loads or equipment. Where feasible, traction lines will be removed prior to other work commencing in the work zones, otherwise, a job hazard analysis (JHA) shall be conducted and a safe plan of action (SPA) created.
- c) **Responsible Manager:** Superintendent – James O'Donnell
Safety Manager – Troy Brinkerhoff

8) **Silica Dust Exposure:**

- a) As demo operation proceed, the risk of exposure of respirable silica dust will increase.
- b) **Mitigation Plan:** Engineered controls must be in place (water, dust collection via HEPA vacuum, etc.) in order to eliminate worker's exposure beyond the permissible exposure limits (PEL) per the Clark/Lewis safety manual. PPE shall be used as a last resort if the hazard cannot be eliminated by engineered controls.
- c) **Responsible Manager:** Safety Manager – Troy Brinkerhoff

9) **Cranes:**

- a) Cranes will be utilized throughout the project third party inspector must come on-site and approve the crane. Early documentation planning will be a critical step in ensuring the safe and timely operations of any on-site cranes.

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- a) **Mitigation Plan:** Prior to any crane entering the site, a crane plan shall be submitted and approved in accordance with the Clark/Lewis crane procedures. Prior to any crane being allowed to make a pick, a third-party inspector must come on-site and approve the crane. Early documentation planning will be a critical step in ensuring the safe and timely operations of any on-site cranes.
- b) **Responsible Manager:** Safety Manager – Troy Brinkerhoff
- 10) **Equipment:**
- a) **Mitigation Plan:** All equipment should only be used in a manner that meets the manufacturers requirements and specifications. All equipment must be inspected by a competent person prior to use. Any operator must be qualified through training or experience. All mobile equipment shall have at least a 5-lb fire extinguisher attached to it. Unless the cab of the machine is fully enclosed, all PPE must be worn during operation. Operator are required to wear a seatbelt while operating the equipment.
- b) **Responsible Manager:** Superintendent – James O’Donnell
Safety Manager – Troy Brinkerhoff
- 11) **Noise:**
- a) **Mitigation Plan:**
- b) When noise levels exceed 85 dBs., hearing protection will be required. Noise level should be monitored periodically to ensure this threshold has not been exceeded.
- c) **Responsible Manager:** Superintendent – James O’Donnell
Safety Manager – Troy Brinkerhoff
- 12) **Hot work**
- a) **Mitigation Plan:** Prior to any hot work taking place, a hot work permit will be issued by Clark/Lewis to the subcontractor. The permit will describe the scope of work and must be approved by a Clark/Lewis representative before work starts. A serviced 10-pound ABC-rated extinguisher shall be readily accessible to all hot work operations. All flammable gas cylinders will be properly labeled, and stored in cages with a fire extinguisher between 10-25 feet away.
- b) **Responsible Manager:** Safety Manager – Troy Brinkerhoff
- 13) **Temporary Lighting During Night Work:**
- a) This work will be ongoing through the night shift, periodically.
- b) **Mitigation Plan:** While the CPS facility lights will provide some illumination, temporary lighting will be utilized when necessary to provide adequate light for safe operations.
- c) **Responsible Manager:** Superintendent – James O’Donnell
Safety Manager – Troy Brinkerhoff
- 14) **Emergency procedures** - In the event of an emergency that requires evacuation
- a) **Mitigation Plan:** The Clark/Lewis Emergency Evacuation Procedures will be discussed at every orientation. Discussion will include rally points, evacuation procedure, evacuation signal, and the

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designated rally point check in member from Clark/Lewis. As the site changes and we move into different areas, we will update the emergency procedures. The Clark/Lewis team will conduct periodic mock drills to ensure each member of the project knows the exact procedures they must follow in case of an emergency.

- b) **EAP:** All Clark/Lewis employees will utilize the C/L EAP app on their mobile devices. This app will be shared with subcontractors PMs, superintendents, and foreman.
- c) **Responsible Manager:**
 - Safety Manager – Troy Brinkerhoff
 - Superintendent – James O'Donnell

15) Demolition

a) **Mitigation Plan:**

- i) An engineered demolition plan will be required for elevated decks and any other areas Clark / Lewis deems necessary. This plan will include, at minimum:
 - 1. Policies and procedures in place to assure employee safety.
 - 2. Procedure for the identification and removal of hazardous materials. Site control including protection of the general public and adjacent structures
 - 3. and daily inspection procedures.
 - 4. Methods used to bring the structure down.
 - 5. Equipment necessary for demolition operations.
 - 6. Fire Protection methods.
 - 7. Removal of material from the site.
- ii) All demo operations are subject to the requirements and restrictions of the Clark/Lewis Safety Manual.

16) Demolition of Pre-Stressed Concrete Structures and Pre-Tensioned Members.

a) **Mitigation Plan:**

- i) A qualified person shall determine if the structure to be demolished contains any pre-stressed or pre-tensioned members in the demolition survey.
- ii) All means shall be taken to release the stress and/or tension on the structure prior to demolition
- iii) If releasing the stress or tension is not feasible, steps shall be taken to brace or secure members so they do not inadvertently move during demolition.
- iv) A professional engineer shall design the removal of these types of structures and referred to as conditions change.

I. Phase 1 – Demo Curbing and Pave Temp Bus Route

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1) Equipment movements in tight quarters:

- a. In both Area 1 and 2, workers and equipment will occupy the same small footprint.
- b. **Mitigation Plan:**
 - i. At all times, maintain required high visibility PPE, ensure that backup alarms are functioning properly, and ensure coordination between equipment and personnel. When workers are required to move into or through the working radius of a piece of equipment, gain the operators attention, make eye contact, and wait for authorization before proceeding through the operational zone.
 - ii. When obstructions or tight quarters prevent the safe movements of a piece of equipment, spotters will be utilized to ensure the protection of workers and property.
 - iii. During the demo process, only personnel and equipment vital to the demo process shall be in the work zone.

2) Crossing active bus right of way:

- a. When personnel or equipment are moving between the two work areas, they will be crossing active bus lanes.
- b. **Mitigation Plan:** When personnel or equipment are required to cross active bus lanes, a flagger will be required to manage the interaction between construction traffic and bus traffic.

Responsible Manager:

Superintendent – James O’Donnell
Safety Manager – Troy Brinkerhoff

II. Phase 2: Temp 9th Ave. Ramp Partial Construction, Circulation Changes, Layover Loop Construction, Partial Mezzanine Demo, and Complete Replacement TPSS.

1) Equipment and personnel interactions:

- a. During the demo activities and the ramp and bridge construction, equipment will be utilized, throughout the process, in close proximity to workers.
- b. **Mitigation Plan:** All equipment shall have working backup alarms. When deemed necessary to maintain safe operation, a spotter will be utilized. Workers required to move through the working radius of equipment, gain the operators attention, make eye contact, and wait for authorization before proceeding through the operational zone.

2) Fall Protection:

a. Temporary 9th Ave Ramp

- i. After the soldier pile wall that encapsulates the temp 9th ramp is placed, during and after the construction of the ramp, there will exist a fall hazard of greater than 4-ft. at the East, West, and North sides.

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- ii. **Mitigation Plan:** After the temp 9th Ave ramp is constructed; an approved handrail system will be constructed to protect workers for this hazard. Prior to handrail construction a warning line will be set up, 6-ft back from exposed edge. Should any actions require entrance into the unprotected area or necessitate a worker to lean beyond the confines of the handrail, a personal fall arrest system shall be in place.

b. Temporary North Bridge:

- i. During the construction and placement of the Temp. North Bridge, work being performed on the bridge deck, or the substructure's, North and South edges will pose a potential fall hazard.
- ii. Work being performed on the 9th Ave sidewalk, after the planters and CPS exterior wall has been demolished and prior the construction of the ramp is complete, will expose workers to a fall hazard.
- iii. **Mitigation Plan:** During the construction of the temp. bridge an approved fall arrest/protection system will be utilized to protect workers while on the bridge/bridge sub-structure. When the bridge deck is completed, an adequate handrail will be installed along the north and south edges. After the demo on the 9th Ave sidewalk and prior to the completion of the bridge, an approved fall protection system will be utilized when working within 6-ft of the unprotected edge. When work is not being performed, or if a handrail will not interfere with the work, a temporary handrail will be constructed to eliminate the fall hazard.
- iv. **Responsible Manager:** Superintendent – James O'Donnell
Safety Manager – Troy Brinkerhoff

3) Public Safety Along 9th Ave

- a. After the planters and CPS wall has been demoed and prior to the completion of the Temp North Bridge, there will exist a potential public safety hazard. Vehicles or pedestrians could inadvertently enter the work area and fall into the work zone.
- b. **Mitigation Plan:** To prevent any risk to the public, a hard, impassable barricade shall be erected in addition to the construction fence, along the 9th Ave sidewalk.
- c. **Responsible Manager:** Superintendent – James O'Donnell
Safety Manager – Troy Brinkerhoff

4) Pile Drilling and Placement Operations

- a. The construction of the temp 9th Ave ramp will include a soldier pile wall on the North, East, and West edges of this zone. This work will include the utilization of multiple pieces of heavy equipment, including a drilling rig, a mobile crane, and other support machines (loader, dump truck, etc.).

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- b. After the drilling of each pile shaft and prior to the placement of the pile, the pile shaft will expose workers to a fall hazard, greater than 6-ft.
- c. **Mitigation Plan:**
 - i. During pile drilling and placement operations, all crane and equipment operations will follow the Clark/Lewis Safety Manual requirements. Personnel and equipment access to the Pile wall construction area will be restricted to include only those individuals and equipment that are directly involved in the work being performed in order to limit unnecessary exposures.
 - ii. All open holes, excavations, and pile shafts that expose workers to a fall hazard of 6-ft, or greater, shall be covered, barricaded, or a personal fall protection system will be utilized when the hazard cannot be eliminated.
 - iii. **Responsible Manager:** Superintendent – James O’Donnell
Safety Manager – Troy Brinkerhoff

5) Access and Egress of Equipment and Materials

- a. The construction of the Secondary Temp Ramp will commence after the Temp North Bridge and the Temp 9th Ave Ramp in order to maintain access and egress through the construction gates, as detailed in the attached 9th Ave Ramp Utilization Plan. Movements through the site by equipment or delivery trucks will pose additional hazards to personnel within the work zone.
- b. During entry and exit of the site equipment and material deliveries will potential interact with active bus traffic within the CPS.
- c. **Mitigation Plan:**
 - i. While traveling through the site, a max speed limit of 5 mph shall be observed at all times. Worker shall not cross between vehicles and their trailers, regardless of operational status of the vehicle, unless required by the operational function of the vehicle. During deliveries, only workers involved in the loading and unloading of vehicles will be within the loading/unloading radius of the vehicle/equipment.
 - ii. At both the access and egress construction gates, a flagger will be present to manage the entry and exit coordination with the CPS bus traffic and the site construction traffic.
 - iii. **Responsible Manager:** Superintendent – James O’Donnell
Safety Manager – Troy Brinkerhoff

III. Phase 3: Begin Layover Loop, Use Secondary Temp Ramp, Finish Temp 9th Ramp, Demo of Mezzanine, Removal of Concrete Medians, and Regrade/Pave Temp Route.

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1) Fall Protection:

- a. As the soldier pile walls extend south, in preparation for the Temp South Bridge, the perimeter of the Temp 9th Ave Ramp will extend, posing additional exposed edge hazards.
- b. Once the demo of the SW Mezzanine (over the tunnel) commences, there will be restricted access to the existing passenger platform at the corner of 9th and Pine. As the demo efforts continue and the mezzanine is removed, an open edge will be present at along the current pedestrian entrance to the CPS facility.
- c. During the demo of the SW Mezzanine, workers may be required to perform work operation near partially demoed/unprotected edges of the structure.
- d. **Mitigation Plan:**
 - i. After the temp 9th Ave ramp is extended; an approved handrail system will be constructed to protect workers for this hazard. Prior to handrail construction a warning line will be set up, 6-ft back from exposed edge. Should any actions require entrance into the unprotected area or necessitate a worker to lean beyond the confines of the handrail, a personal fall arrest system shall be in place.
 - ii. Workers required to be on the mezzanine, after the demo process has begun, will be required to follow all Clark/Lewis fall protection protocol and will not be permitted to tie off to any portion of the mezzanine structure that has been compromised by the demo efforts.
 - iii. To prevent any risk to the public, a hard, impassable barricade shall be erected in addition to the construction fence, along the 9th Ave and Pine St. sidewalk.
 - iv. **Responsible Manager:** Superintendent – James O’Donnell
Safety Manager – Troy Brinkerhoff

2) Pile/Soil Nail Drilling and Placement Operations

- a. **Mitigation Plan:**
 - i. **Pile Operations:** See previous section. **(Phase 2)**
 - ii. **Soil Nails:** During operation, only workers essential to the operation will be permitted in the work zone. Extra precautions will be taken to keep personnel out of the debris blowback area while clearing the shafts and away from any and all potential recoil areas while tensioning the tiebacks.
 - iii. **Responsible Manager:** Superintendent – James O’Donnell
Safety Manager – Troy Brinkerhoff

3) Demolition of the Mezzanine and the Concrete Median

- a. **Mitigation Plan:**

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- i. All demolition efforts will follow the approved, engineered demolition plan and the Clark/Lewis Safety Manual.
- ii. The demolition work zone will have restricted access, admitting only those workers who are directly involved in the demo process.
- iii. **Responsible Manager:** Superintendent – James O’Donnell
Safety Manager – Troy Brinkerhoff

4) **Access and Egress of Equipment, Materials, and Personnel**

- a. Movements through the site by equipment or delivery trucks will pose additional hazards to personnel within the work zone.
- b. When equipment, materials, and personnel are required to move between the East and West work zones, they will cross multiple lanes of active bus traffic.
- c. Pedestrian traffic entering and exiting the work area, and while proceeding to and from their work areas, could interact with vehicle and equipment movements.
- d. **Mitigation Plan:**
 - i. While traveling through the site, a max speed limit of 5 mph shall be observed at all times. Worker shall not cross between vehicles and their trailers, regardless of operational status of the vehicle, unless required by the operational function of the vehicle. During deliveries, only workers involved in the loading and unloading of vehicles will be within the loading/unloading radius of the vehicle/equipment.
 - ii. At both construction gates, a flagger will be present to manage the entry and exit coordination with the CPS bus traffic and the site construction traffic.
 - iii. A designated pedestrian walk way shall be used along the vehicle’s path of travel.
 - iv. **Responsible Manager:** Superintendent – James O’Donnell
Safety Manager – Troy Brinkerhoff

IV **Phase 4: Circulation Change to Allow for Demo and Begin of Construction, East of Grid H., and Temporary South Bridge Placement.**

1) **Temporary South Bridge:**

- a. During the construction and placement of the Temp. South Bridge, work being performed on the bridge deck, or the substructure’s, North and South edges will pose a potential fall hazard.
- b. Work being performed on the 9th Ave sidewalk, after the planters, CPS exterior wall, and the mezzanine has been demolished and prior the construction of the ramp is complete, will expose workers to a fall hazard.

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- c. **Mitigation Plan:** During the construction of the temp. bridge an approved fall arrest/prevention system will be utilized to protect workers while on the bridge/bridge sub-structure. When the bridge deck is completed, an adequate handrail will be installed along the north and south edges. After the demo on the 9th Ave sidewalk and prior to the completion of the bridge, an approved fall protection system will be utilized when working within 6-ft of the unprotected edge. When work is not being performed, or if a handrail will not interfere with the work, a temporary handrail will be constructed to eliminate the fall hazard.
 - d. **Responsible Manager:**
 - Superintendent – James O’Donnell
 - Safety Manager – Troy Brinkerhoff
- 2) **Access and Egress of Equipment, Materials, and Personnel**
- a. **Mitigation Plan:**
 - i. See previous section **(Phase 3)**
 - b. **Responsible Manager:**
 - Superintendent – James O’Donnell
 - Safety Manager – Troy Brinkerhoff

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II. CURRENT SAFETY TRENDS

We will address all current safety trends by utilizing the following mitigation plan:

- All subcontractors and lower tier Subcontractors will be required to submit Safe Start Documentation before the start of on-site operations. The Safe Start documentation must be approved, then the company, including all management, will attend a Safe Start meeting. These meetings will be a tool to discuss all hazards, and expand upon the current safety trends on all Clark jobsites.
- Everyone to be allowed on-site will take part in a Clark/Lewis orientation. This training will discuss and teach the dangers of current safety trends.
- Safe Plan of Action will be required from each subcontractor before the start of each task, and at the beginning of each day. Every member of the Clark/Lewis team will attend at least one subcontractor SPA meeting a week
- Weekly Toolbox Talks at Clark/Lewis Staff Meetings to discuss safety concerns that align with our current construction activities and safety trends seen below.
- Weekly site safety inspections will be conducted by all Clark/Lewis field supervisors.
- Monthly Safety Committee Meetings will be held to review the Safety Committee's jobsite safety concerns and express the safety goals and initiatives to all persons on site.
- All competent Field Management, will complete at a minimum, a weekly documented safety inspection to monitor and identify subcontractor and hazard trends. These trends will be used as a leading indicator to pinpoint the biggest risks on the jobsite.

1. **No. 1 Incident Type - Struck By**

- a. **Mitigation Plan:** Clark/Lewis management will complete OSHA-10 and OSHA-30 to better identify all struck by hazards. Clark/Lewis management will participate in subcontractor pre-task plans, and explain the Clark/Lewis requirement for struck by hazards. When possible, struck by hazards will be delineated or marked off. Constant communication between operators and surrounding personnel will be enforced.
- b. **Responsible Manager:** Safety Manager – Troy Brinkerhoff

2. **No. 1 Injury Type - Sprains and Strains**

- a. **Mitigation Plan:** Clark/Lewis and its subcontractors will take part in a daily stretch and flex program. All personnel will be encouraged to keep stretching throughout the day. All equipment and materials over 50 lbs will be lifted using mechanical means, or two people. Housekeeping policy is clean as you go, to avoid excess materials that could cause a sprain.
- b. **Responsible Manager:** Safety Manager – Troy Brinkerhoff

3. **No. 1 Body Party Injured - Hands**

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- a. **Mitigation Plan:** All Clark/Lewis and subcontractor's employees will utilize the 100% glove policy. Hand Injury Awareness training will be held, at a minimum, yearly during a Toolbox Talk meeting or All Hands.
 - b. **Responsible Manager:** Safety Manager – Troy Brinkerhoff
4. **No. 1 Trade Injured - Concrete Subcontractors**
- a. **Mitigation Plan:** All concrete chipping shall require full-face protection, rubber boots shall be required during concrete placement, saw cutting concrete shall require proper dust mitigation and noise reduction, prior to concrete cutting operations where energized utilities are present the employer shall ascertain by observation or instruments, and all Clark/Lewis B25 Concrete and Masonry policies shall be followed.
 - b. **Responsible Manager:** Safety Manager – Troy Brinkerhoff
Superintendent – James O'Donnell

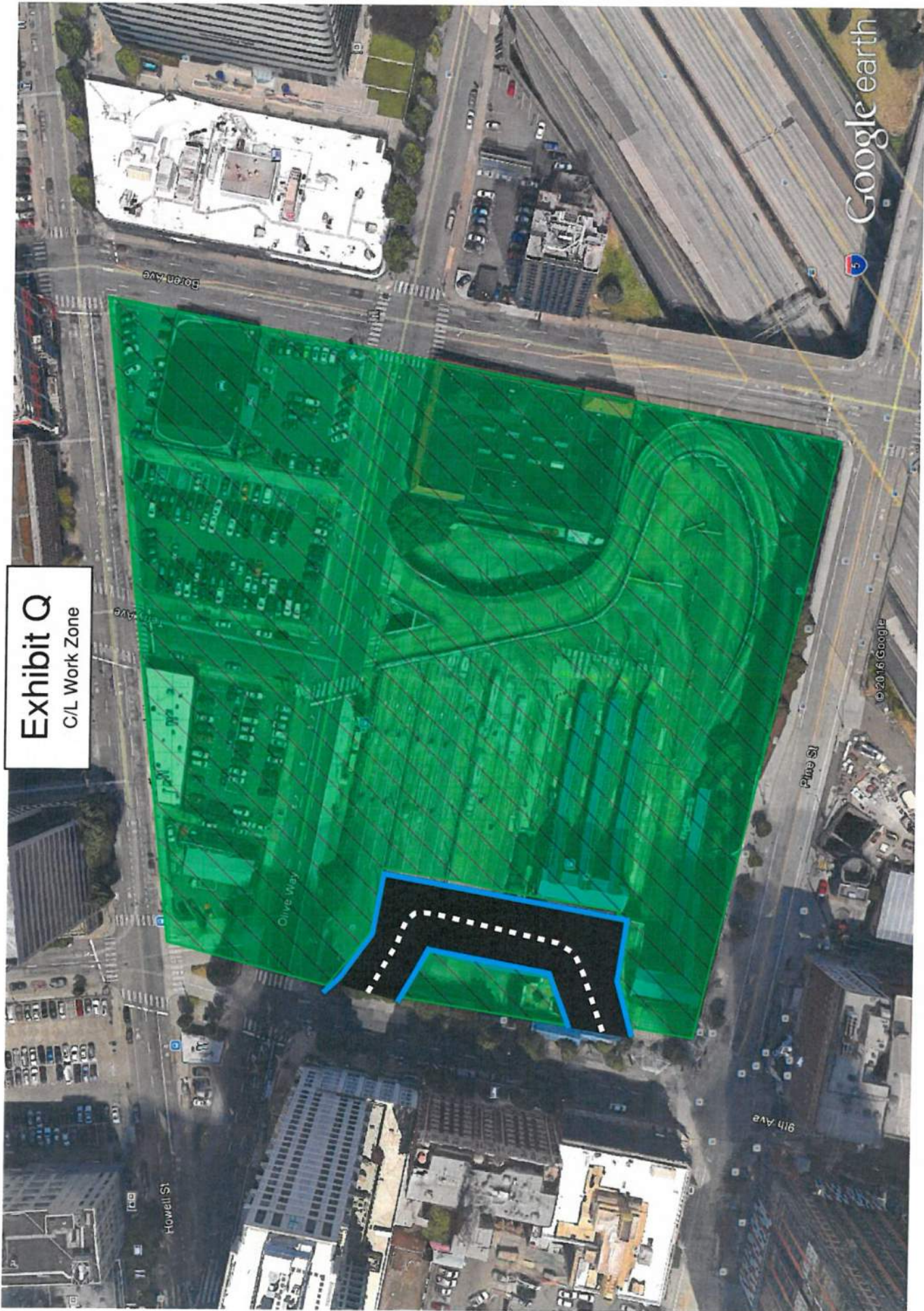


Exhibit Q
C/L Work Zone

Clark / Lewis work zone is hatched area

EXHIBIT R

Separation Wall

EXHIBIT R
Separation Wall

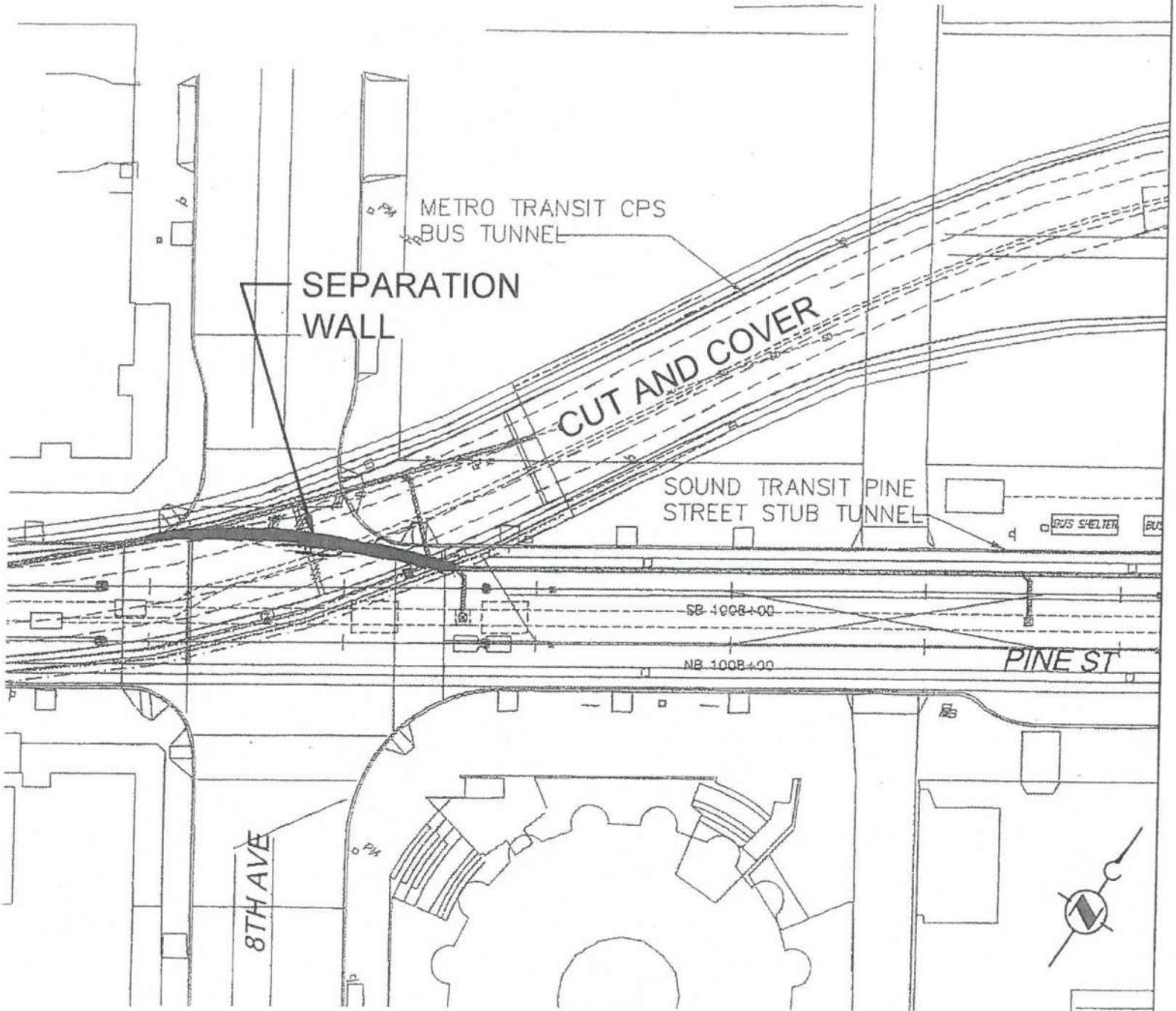


EXHIBIT S

Communications Room

Exhibit S
Communications Room

EXHIBIT S

PERMANENT ACCESS AND
EGRESS TO CUT & COVER
THRU WSCCA

