STANDARD SPECIFICATIONS

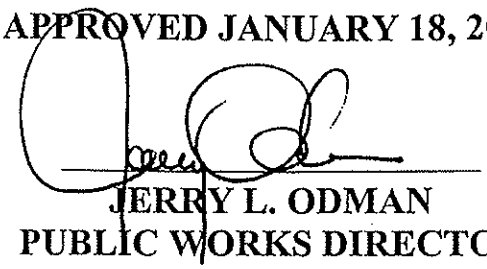
FOR THE

CITY OF PENDLETON, OREGON

JANUARY 2001

(Minor revision to details November 2006)

CITY OF PENDLETON
STANDARD SPECIFICATIONS
APPROVED JANUARY 18, 2001



JERRY L. ODMAN
PUBLIC WORKS DIRECTOR

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1:00 INFORMATION TO BIDDERS

1:01 Intent of Plans and Specifications. It is the intention of these specifications to provide for a careful, thorough workmanship construction procedure in the installation of materials and equipment and in the manufacture and delivery of such materials and equipment. The bidder to whom the Contract is awarded shall furnish all the material, equipment and labor necessary to complete said contract in accordance with all its terms and conditions.

The plans, any special specification and standard specifications shall be considered and used together; anything appearing as a requirement of either shall be accepted as applicable to both even though not so stated therein or shown. The Public Works Director (PWD) may furnish plans and special specifications to define more clearly any requirements of the original documents; these shall be accepted by the contractor as of the same force and effect as though they had been included among the listed drawings and in case of any conflict between the listed and the supplemental drawings, the latter shall govern. All materials, equipment and work which are necessary for a complete and approved project as defined by the plans, special specifications and the standard specifications are identified as separate pay items on the proposal. All materials, equipment and work which is necessary for a complete and approved project, which is not identified as a separate pay item on the proposal, shall not be measured for payment separately but shall be considered as a subsidiary obligation of the Contractor.

All specifications and notes appearing on the plans shall have the same force and effect as though they were repeated herein.

1:02 Interpretation of Document. If a prospective bidder is in doubt as to the true meaning of any part of the plans, specifications, or other proposed contract documents, he may submit to the PWD a written request for an interpretation thereof, either by certified mail or personal delivery. An interpretation will be made only by addendum duly issued by the PWD within five (5) working days of receipt of request and a copy thereof will be mailed or otherwise delivered to each prospective bidder. The City will not be responsible for any other form of explanation or interpretation.

1:03 Examination of Contract Document or Site of Work. Before making a proposal, the bidder shall examine the site of the work and ascertain for himself all the physical conditions in relation thereto. Failure to take this precaution shall not release him from his obligation as implied by the proposal he submits nor excuse him from performing the work in strict accordance with the requirements of the Contract Documents.

No statement made by an officer, agent, or employee of the City pertaining to the Contract Documents, the site of the work or the conditions under which the work must be performed will be binding on the City.

The Contract Document is the final binding agreement between the parties and replaces any oral agreement that may have been entered into previously, and that it may only be changed by further written agreement signed by each of the parties.

1:04 Preparation of Proposal. Bids must be submitted by filling in with ink (or typing) each and every blank provided for such purpose in the form headed "Proposal", or if the bidder is required to provide a special form appropriate to the nature of his bid, then such form shall be complete in all respects as required by the specifications if it is to merit consideration by the City. Where indicated all blank spaces shall be filled in with words and figures. Written amounts shall take precedence where there is a conflict between the written amount and the figure.

If the proposal is made by a partnership, it shall contain the name of each partner and should be signed in the firm name, followed by the signature of a partner or that of a person duly authorized to act for and on behalf of such partnership. If made by a corporation, the proposal should be signed with the name of the corporation and the State in which incorporated, followed by the written signature of the qualified officer and the designation of the office he holds in the corporation. The address of the person, firm or corporation in whose behalf the proposal is submitted shall be given. The bidder shall comply with all other specific requirements of the proposal form.

1:05 Alteration of Documents Prohibited. Except as provided otherwise herein, proposals which are incomplete or conditioned in any way which the plans or specifications do not authorize, contain unverified erasures or alterations, include items which are not named in the proposal form or which is unlawful, may be rejected as informal at the sole discretion of the City of Pendleton.

1:06 Bid Security. Proposals must be accompanied by a certified check drawn on an Oregon Bank in good standing, or banks doing business in Oregon in good standing, or a Bid Bond issued by a surety company authorized to issue such bonds in the State of Oregon, in an amount not less than five percent (5%) of the total amount of the Proposal submitted. This check or Bid Bond shall be given as guarantee that if awarded the Contract, the successful Bidder will execute the attached Contract within the time specified.

The City reserves the right to retain the bid security of the three (3) lowest bidders until the successful Bidder has signed and delivered the Contract and furnished a one hundred percent (100%) Performance Bond. Upon failure of the successful Bidder to sign and deliver said Contract and Performance Bond within the specified time, the next lowest bid may be accepted at the Owner's discretion, whereupon the above instructions and requirements will apply to the said second bidder.

Bid security of all bidders, except the three lowest, will be returned promptly after the canvass of bids; bid security of the three lowest bidders will be returned within ten (10) days after the Contract has been executed or other disposition made thereof in accordance with the provisions stated herein.

1:07 Prequalification of Bidders for City of Pendleton Public Works Projects. Bidders for City of Pendleton public works projects in Oregon may be prequalified in conformance with Oregon Law. If the prospective bidder is prequalified with the Oregon Department of Transportation or with the Oregon Department of General Services to perform contracts for a particular kind of work, the bidder may submit proof of such prequalification along with a copy of their prequalification application form. The prequalification form or proof of prequalification with State agencies must be completed by the prospective Bidder and submitted to the City prior to the bid opening date.

The State of Oregon Public Contract Review Board form for Contractor's Prequalification shall be filled out by the prospective Bidder and mailed to the office designated in the Advertisement for Bids.

Bidder's who's prequalification have not expired with the City need not resubmit prequalification forms.

1:08 Submission of Proposal. Each proposal shall be completely sealed in a package addressed as required by the official advertisement, marked with the name of the Bidder and the title of the project; it must be delivered to the addressee at or before the time named in said advertisement.

1:09 Modification of Proposal. Change in a proposal already delivered will be permitted only if a request for the privilege of making such modification is made in writing signed by the Bidder and the specific modification itself is stated prior to the scheduled closing time for the receipt of proposals. To be effective, every modification must be made in writing over the signature of the Bidder; no other form of procedure will be acceptable.

1:10 Withdrawal of Proposal. A proposal may be withdrawn at any time prior to scheduled closing time for filing bids. This may be done by the Bidder in person or upon his telegraphic or written request. If withdrawal is made personally, a written acknowledgment thereof will be required.

After the scheduled closing time for filing bids, no Bidder will be permitted to withdraw his proposal unless no award of contract has been made prior to the expiration of thirty (30) days immediately following the time when bids are submitted. Bids received after the scheduled closing time will be rejected without consideration.

1:11 Opening Bids. All proposals received prior to the scheduled closing time and which are not withdrawn as above provided, will be publicly opened and read aloud even though there may be irregularities or informalities therein, except that any proposal which is not signed will not be read, and consequently, will be rejected without consideration.

1:12 Award of Contract. Within thirty (30) calendar days after the opening of the proposals the City will accept one of the proposals, or accept different schedules of several of the proposals, or accept different schedules of several of the proposals, or reject any or all bids.

1:13 Basis of Award. The award will be made upon the basis of that proposal which in the City's sole judgment will serve the best interests of the City. If an early completion date is desired, the City may give such value as may be deemed appropriate to the Contractor's "Construction Time" after all other features of the Bidder's proposal have been considered.

1:14 Execution of Contract. The successful Bidder shall, within ten (10) days after receiving the award, execute the Contract hereto with the City of Pendleton, Oregon.

1:15 Performance Bond. The successful Bidder shall file with the City at the time of execution of the Contract, the Performance Bond that is enclosed in the Contract Document in the full amount of the Contract price, which bond shall be in force for one year after the date of the final acceptance of the work to cover all guarantees against defective workmanship and materials.

1:16 Failure to Execute Contract and Furnish Bond. Should the successful Bidder fail or refuse to execute the Contract and furnish the Performance Bond, the bid security deposited by said Bidder shall be retained as liquidated damages by the City and it is agreed that this said sum is the amount of damages the City will sustain in case the bidder fails to enter into a Contract and furnish bond as hereinbefore provided. Bid security deposited in the form of a certified check shall be subject to the same requirement as a Bid Bond.

1:17 Notice to Proceed. Written Notice to Proceed will be given by City after the Contract has been executed and the performance bond and all required insurances have been filed with and approved by the City. Contractor shall not commence work under the Contract until such written notice has been given.

Notice to Proceed for street projects may be delayed by City until required utility relocation, construction, or reconstruction has been completed or has progressed to a satisfactory degree of conformance which will allow initial contract work to commence.

The Contractor shall commence work within ten days after the date of the Notice to Proceed, or such other date as may be fixed by the Notice to Proceed, which date shall establish the date for commencement of the Contract time. The Contractor shall notify PWD forty-eight (48) hours in advance of the time and place work will be started.

1:18 Verbal Agreement. No verbal agreement or conversation with any officer, agent or employee of the City, either before or after execution of the Contract, shall affect or modify any of the terms or obligations contained in any of the documents comprising the Contract. Any such verbal agreement or conversation shall be considered as unofficial information and not binding to the City.

1:19 Amount of Work To Be Done. The estimate of quantities of work to be done under unit price bids is approximate and is given only as a basis of calculation for comparison of bids and award of the Contract. The City does not by implication agree that the actual amount of work will correspond precisely to the amount as shown or estimated. Payment will be made at unit prices under a Contract, only for work actually performed or materials actually furnished according to actual measurement.

1:20 Right to Reject Bids. The City reserves the right to reject any or all bids. The City also reserves the right to reject one schedule and accept the other schedule(s) of the proposal as the City determines is in its best interests.

1:21 Wage Rates on Public Works. The Contractor shall comply with all State or Federal requirements of Wage Rates on Public Works.

2:00 GENERAL CONDITIONS

2:01 Definitions.

2:01-A Contract Documents. The "Contract Documents" consists of the following: Advertisement for Bids, Proposal, Contract for Construction, Performance Bond, Certificate of Insurance, any Notice to Prospective Bidders and any Special Specification, if applicable from the bidding document, the Information to Bidders, General Conditions, General Specifications, Standard Drawings from the Standard Specifications for City of Pendleton, the Plans, Addendum and Change Orders that occur during the execution of the Contract.

2:01-B City. Wherever the word "City" occurs in these Contract Documents, the terms shall signify the City of Pendleton, an Oregon municipal corporation, Umatilla County, Oregon, acting through its duly authorized agents.

2:01-C Consultant. Wherever the word "Consultant" occurs in these Contract Documents, it shall signify a legal entity including: an individual, partnership, company or corporation that is licensed to practice in the State of Oregon. The Consultant shall be the agent for the party or parties contracting to have public improvements constructed or other work under the jurisdiction of the City of Pendleton or others.

2:01-D Contractor. Wherever the word "Contractor" occurs in these Contract Documents, the term shall signify the party or parties contracting with the City on public improvement or other work under the jurisdiction of the City of Pendleton to perform the work.

2:01-E Engineer. Wherever the word "Engineer" occurs in these Contract Documents, the term shall signify the Public Works Director (PWD) or his representative acting in and for the City of Pendleton, Oregon.

2:01-F Written Notice. Wherever the term "Written Notice" occurs in these Contract Documents, it shall signify a written communication delivered in person to the legal entity including; individual, or to a member of the firm, or to an officer of the corporation for whom it is intended, or if delivered or sent by certified mail, to the last known business address.

2:01-G Work. Wherever the word "Work" occurs in these Contract Documents, it shall signify all material, labor, personal service, tools, and all appliances, machinery and appurtenances necessary to perform and to complete the project as specified in the Contract Documents or as shown on the Plans in a workmanlike manner and such additional items of labor, material, and equipment not specifically indicated or described which is reasonably required in the performance of the various items of work and/or the project.

2:01-H Bidder. Wherever the word "Bidder" occurs in these Contract Documents, the word shall signify any legal entity including; person, firm, partnership or corporation submitting Proposals on this project.

2:01-I Acceptance of Work. All work required by the Contract Documents will be considered "Accepted" upon written approval of the Certificate of Acceptance by the City, pursuant to 2.06-G.

2:01-J Substantial Completion. "Substantial Completion" shall be that degree of completion of the project or a defined portion of the project, sufficient to provide the City, at the City's discretion, the full-time use of the project or a defined portion of the project for the purpose for which it was intended.

2:01-K Major Item. A major item in the proposal document shall be any bid item that exceeds five percent (5%) of the total contract amount.

2:02 Specifications and Plans.

2:02-A Specifications, Plans and Drawings. The Contractor shall keep one copy of the Contract Documents on the work site, at all times.

The Public Works Director or Consultant will furnish to the Contractor, free of charge, two (2) copies of the Contract Documents and three (3) sets of Plans. Additional copies of Contract Documents or Plans may be obtained on request by paying the City's established cost of reproducing the Contract Documents and/or Plans.

2:02-B Inconsistencies and Omissions. The Contract Documents are intended to be complimentary, and what is called for by any one shall be as binding as if called for by all. The intent of the documents is to include all labor, personal service and material, all equipment, machinery, and transportation necessary for the proper execution of the work. Materials of work described in words, which so applied, have a well known technical and trade meaning shall be held to refer to such recognized standards. Should any discrepancies occur or any misunderstanding arise as to the interpretation in the Contract Documents, the decision of the Public Works Director shall be final and binding on the Contract, and all directives and decisions required to complete any of the provisions of the Contract Documents will be issued by the Public Works Director. Should a conflict exist between the Contract Specifications and Drawings, the drawings shall prevail.

2:02-C Alterations. The City without invalidating the Contract may order extra work or make changes by altering, adding to, or deducting from the work. All such work shall be executed under the conditions of the original Contract, except that claim for extension of time and payment for extra work caused thereby shall be adjusted at the time of ordering such change.

In giving instructions, the Public Works Director shall have authority to make minor changes in the work not involving extra cost and not inconsistent with the purposes of the work, except in emergency endangering life or property, extra work or deductions from the work shall be performed only in pursuance of a written order from the Public Works Director. When the City authorizes a deduction, extra work, or change, no claim for additional payment shall be valid unless so ordered.

If any such changes, deductions, or alterations should diminish the quantity of work to be done, they shall not constitute a claim for damages for anticipated profits on that portion or portions of work deducted. However, should changes in major items be in excess of twenty-five percent (25%) of the bid price for that class of work given in the proposal, the bid price may be renegotiated within 10 days of notice of said change, at the option of either party.

2:02-D Verification of Data. It is understood and agreed that the Contractor has, by careful examination, satisfied himself as to the nature and location of the work, the character, quality, and quantity of the materials required, the character of equipment and facilities needed to accomplish the work, the general and local conditions, all other matters which can in any way affect the work under this contract, and he has made careful examination of the affect of the work under the Contract Documents. No verbal agreement or conversation with any officer, agent, or employee of the City, excepting PWD in person, either before or after the execution of this Contract, shall affect or modify any of the terms or obligations within contained.

2:03 The Public Works Director (PWD).

2:03-A Authority of the PWD. The PWD shall have complete supervision and direction of all work performed under the Contract. He has authority to stop the work whenever such stoppage may be necessary in his opinion to insure the proper execution of the Contract. The PWD shall have authority to: reject work and materials which do not conform to the Contract, direct the application of forces to any portion of the work if in his judgment it is required, order the force increased or diminished, and decide all questions which may arise in the execution and performance of the work. The PWD shall, within two days (Holidays, as defined by the most recent City resolution establishing policies and procedures with reference to the classification and compensation of position, the hours of work, attendance, and leave regulations, and other matters within the City of Pendleton, Oregon, Saturdays and Sundays excluded) time after their presentation to him, render a decision, in writing, on all written claims of the Contractor, the Written and/or verbal decision of the PWD on these and other matters relating to the execution and progress of the work, the interpretation of the Contract Documents, or estimates shall be final, conclusive and binding.

The Contractor shall have available his duly authorized representative on the Construction project at all times and the representative shall be authorized to receive order or directions from the PWD. As defined in Section 2.02-C, herein.

2:03-B The PWD's Representatives. The PWD shall have authorized inspectors or assistants acting in and for the City and they shall have the power to issue instructions and make decisions within the limitations of the authority of the PWD. The authority of such inspectors and assistants shall be limited to the particular portion or phase of the work to which they are assigned and by the particular duties assigned to them.

2:03-C Responsibility and Inspection. The PWD will station such inspectors as in his judgment are necessary to determine that the provisions of the Contract Documents are being properly fulfilled. The PWD shall have full access at all times to all parts of the work. In the absence of inspection, it is the responsibility of the Contractor to fulfill the obligations under this Contract, to furnish good and acceptable materials, and to perform all work in a craftsmanlike manner. The inspection of the work done shall not relieve the Contractor of his obligations to furnish proper materials and perform sound and reliable work.

2:03-D Rejected Material. Any material condemned or rejected because of nonconformity with these Contract Documents shall be removed at once from the work by the Contractor at his own expense, and these materials shall not be used on the Contract. Only work of the highest and best quality will be accepted by the City for payment.

2:03-E Unnoticed Defects. Any defective work or material that may be discovered by the PWD or consultant before the final acceptance of work, or before final payment has been made, shall be removed and replaced by work and materials which shall conform with the intent and spirit of the Contract Documents. Failure to condemn or reject poor or inferior work or material shall not be construed to imply acceptance of such work or materials. All defects, poor and substandard work shall be removed at the Contractor's cost and expense.

2:03-F Right to Retain Imperfect Work. If any part or portion of the work done or material furnished under this Contract shall prove defective and not in accordance with the Plans and Specifications, and if the imperfection in the same shall not be of sufficient magnitude or importance as to make the work dangerous or undesirable, or if the removal of such work will create conditions which are dangerous or undesirable, the City shall have the right and authority to retain such work but may make such deductions in the payment therefore as determined by the PWD. Any dispute concerning deduction in payment shall be appealed in writing to City Council within ten (10) days of payment.

2:03-G Approval of Working Drawings and Plans. The Contractor or Consultant shall submit six sets, to the PWD for his approval such plans or drawings and/or catalog cuts for fabricated items and manufactured items, including mechanical and electrical equipment, as may, in the opinion of the PWD, be required for the construction of the work or any part thereof. Drawing(s) shall be submitted sufficiently in advance to allow the PWD not less than ten regular working days for examining the drawings.

These drawings shall be accurate, distinct and complete and shall contain all required information, including satisfactory identification of items, units and assemblies in relation to the Contract Drawings and or specifications.

Unless otherwise approved by the PWD, drawings shall be submitted only by the Contractor or Consultant, who shall indicate by a signed stamp on the drawings, or other approved means, that he (the Contractor or Consultant) has checked the drawings and that the work shown is in accordance with Contract requirements and has been checked for dimension and relationship with work of all other trades involved. The practice of submitting incomplete or unchecked drawings is not acceptable, and these drawings will be considered as not complying with the intent of the City Standard Specifications and will be returned to the Contractor or Consultant for resubmission in the proper form.

When the drawings are approved by the PWD, two sets of prints will be returned to the Contractor marked "Approved, except as Noted", or some similar notation, if changes or corrections are necessary, one set will be returned to the Contractor with such changes or corrections indicated by a brief statement and the Contractor shall correct and resubmit the six sets of drawings when requested.

The approval of such drawings and/or catalog cuts by the PWD, shall not relieve the Contractor or Consultant from responsibility for correctness of dimensions, fabrication details and space requirements or for deviations from the Contract Drawings or Specifications, unless the Contractor or Consultant has called attention to such deviations in writing by a letter accompanying the drawings and the PWD approves the change or deviations in writing at the time of submission nor shall approval by the PWD relieve the Contractor from the responsibility for errors in the drawings. When the Contractor does call such deviations to the attention of the PWD the Contractor shall state in his letter whether or not such deviations involve any deduction or extra cost adjustment.

2:03-H Detail Drawings and Instruction. The City shall furnish, within three (3) working days, (excluding holidays) additional instructions by means of drawings or otherwise, as are necessary for the proper execution of the work. All such drawings and instructions shall be consistent with the Contract Documents, true developments thereof, and reasonably inferable therefrom.

2:04 The Contractor and His Employees.

2:04-A Employees. Any and all employees of Contractor, or his contractors while engaged or performing any work or services required by him under this agreement, shall be considered his employees only and not employees of the City, and any claims that may arise under the Workers' Compensation Act on behalf of the said employees while so engaged in any and all claims made by third parties as a consequence of any act or omission on the part of him or his employees while so engaged on any of the work or services provided to be rendered herein shall be the sole obligation responsibility of Contractor and/or his contractors. The parties to this agreement recognize that Contractor and his employees, officers, agents and subcontractors are providing professional services as independent contractors and are not providing services as employees of the City and are, therefore, not entitled to the benefits provided by the City to his employees, including but not

limited to Workers' Compensation benefits, group health insurance, social security, pension plans or any other benefit accruing to City's employees. Contractor hereby agrees to hold the City harmless from, and shall process and defend at his own expense, all claims, demands or suits of whatever nature, brought against him arising from his performance under this agreement. Contractor shall advise his officers, agents, employees and subcontractors of this provision.

2:04-B Contractor Requirements.
By entering into a contract with the City, the Contractor certifies that:

a. Contractor is free from direction and control over the means and manner of providing the labor or service, subject only to the right of City to specify the desired results;
b. Contractor is responsible for obtaining all assumed business registrations or professional occupational licenses required by state law or local governmental ordinances;
c. Contractor furnishes the tools or equipment necessary for performance of the contracted labor or services;
d. Contractor has the authority to hire and fire employees to perform the labor or services;
e. Payment for the labor or services is made upon completion of the performance of specific portions of the project or is made on the basis of a periodic retainer;
f. Contractor is registered under ORS 671.530 (Construction Contractors), if Contractor provides labor or services for which such registration is required;
g. Federal and state income tax returns in the name of the business or a business Schedule C or farm Schedule F as part of the personal income tax return were filed for the previous year if the Contractor performed labor or services as an independent contractor in the previous year; and
h. Contractor represents to the public that the Contractor is an independently established business. Except where Contractor files a Schedule F as part of the personal income tax return and the Contractor performs farm labor or services that are reportable on Schedule C, Contractor is considered to be engaged in an independently established business when four or more of the following circumstances exist:
    i. The labor or services are primarily carried out at a location that is separate from the residence of Contractor or are primarily carried out in a specific portion of the residence, which portion is set aside as the location of the business;
    ii. Commercial advertising or business cards as is customary in operating similar businesses are purchased for the business or the Contractor has a trade association membership;
    iii. Telephone listing and service are used for the business that is separate from the personal residence listing and service used by Contractor;
    iv. Labor or services are performed only pursuant to written contracts;
    v. Labor or services are performed for two or more different persons within a period of one year; or
    vi. Contractor assumes financial responsibility for defective workmanship or for service not provided as evidenced by the ownership of performance bonds, warranties, errors and omission insurance or liability insurance relating to the labor or services provided.

2:04-C Insurance. The Contractor shall not commence work under this Contract until he has furnished the City with satisfactory proof of suitable and adequate insurance as specified herein.

a. Compensation Insurance. The Contractor shall provide workers' compensation insurance coverage for all individuals, other than those exempt under ORS 656.027, who perform labor under the Contract before labor under the contract commences. Contractor shall pay all contributions or amounts due for workers' compensation coverage from the Contractor incurred in the performance of the Contract.

A copy of each insurance policy, or certificate thereof, issued by a responsible and solvent insurance corporation or association authorized to issue such policy or policies under the laws of the State of Oregon shall be delivered to the City within a reasonable period of time after the same is issued by the company or companies or associations issuing such policy or policies. All said policies or certificates shall provide for a minimum of thirty (30) days notice to the City in the event of cancellation or material change in the terms.

b. Public Liability and Property Damage Insurance. The Contractor shall maintain Public Liability Insurance against death or injury to person, or damage to property, during the life of this Contract; said insurance shall be in such form so as to protect both Contractor and City from all claims expressed or implied as above provided, and in the following amounts:

(1) Public Liability Insurance not less than $300,000 for injuries to any one person, including accidental death, and not less than $500,000 for any one accident.

(2) Property Damage Insurance not less than $100,000 for any one accident.

The Contractor's Public Liability and Property Damage Insurance shall adequately provide the primary coverage on all claims arising out of the performance of the Contract.

The above mentioned proof shall be in the form of a copy of the policy and all appropriate riders with the City being named as a co-insured on all policies and provide for 30 day notice of cancellation to City.

2:04-D Maintenance and Guarantee. The Contractor hereby agrees to make, at his own expense, any repairs or replacements made necessary by defects in materials or workmanship supplied by him that became evident within one (1) year after the date of final acceptance; 2:01-I. The Contractor shall at his own expense make all repairs and replacements promptly upon receipt of written orders from the City. If the Contractor fails to make the repairs and replacements promptly, the City may at the City's discretion perform the required work, and the Contractor and his surety shall be liable for the costs thereof.

2:04-E Superintendent. The Contractor shall during the progress of any of the work, provide (to the satisfaction and opinion of the City) a competent superintendent and necessary assistants. The Contractor shall give prompt and efficient supervision to all phases of the work. The superintendent shall not be changed except by consent of the City unless superintendent proves to be unsatisfactory to the Contractor or ceases to be in his employ.

2:04-F Contractor's Employees. The Contractor shall employ only competent, skillful personnel to do the work; and whenever any person shall appear to the PWD to be incompetent or to act in a disorderly or improper manner, such person shall be removed from the work immediately upon written notification from the PWD and shall not be employed on the work again, except by consent of the PWD. The Contractor shall at all times enforce strict discipline and good order among his employees. The Contractor shall comply with all Federal, State and Municipal labor rules, wage scales, and regulations in which the work is to be done, including all nondiscriminatory laws.

2:04-G Materials. Unless otherwise stipulated, the Contractor shall provide and pay for all materials, labor, tools, equipment, transportation and other facilities necessary for the execution and completion of the work.

Unless otherwise specified, all materials shall be new, and both workmanship and materials shall be of a good quality. The Contractor shall, if required, furnish satisfactory evidence as to the kind

and quality of materials.

The Contractor will not permit any lien or claim to be filed or prosecuted against the City on account of any material or labor furnished to the Contractor.

2:04-H Safety. The Contractor shall take all necessary precautions for the safety of employees on the work and shall comply with all applicable provisions of Federal, State and Municipal safety laws and building codes to prevent accidents or injury to persons on, about, or adjacent to the premises where the work is being performed. He shall erect and properly maintain at all times, as required by the conditions and progress of the work, all necessary safeguards for the protection of workers and public and shall post adequate danger signs warning against the hazards created by such features of construction. Said work is to be so conducted that no liability will accrue under the Employer's Liability Act of the State of Oregon.

2:04-I Protection of Property. The Contractor shall continuously maintain adequate protection of all his work from damage and shall protect the City's property from injury or loss arising in connection with this Contract. He shall make good any such damage, injury, or loss. He shall adequately and safely protect adjacent property as provided by law and in the Contract Documents.

In an emergency affecting the public safety and welfare of adjoining property, the Contractor, without special instruction or authorization from the PWD or Consultant is hereby permitted to act, at his discretion, to prevent such threatened loss or injury; and he shall so act, without appeal, if so instructed or authorized. Any compensation claimed by the Contractor on account of emergency work shall be in accordance with 2:06-D.

2:04-J Unforseen Difficulties. The Contractor shall protect his work and materials from damage due to the nature of the work, the elements, carelessness of other sub-contractors, or from any cause whatever until the completion and acceptance of the work. All loss or damages to the work, performed under these Contract Documents, or from any unforseen obstruction or defects which may be encountered in the prosecution of the work, or from the action of the elements, shall be sustained by the Contractor. It shall be the Contractor's responsibility to examine carefully the extent and nature of all work to be performed, to inform himself of the location of utilities, to take all necessary precautions to protect and maintain these utilities in good condition, or in the event of damage to restore same, all at the Contractor's cost.

2:04-K Permits and Licenses. The Contractor shall keep himself informed of all local ordinances, State and Federal Laws in any manner affecting the work herein specified. He shall at all times comply with said ordinances, laws, and regulations, and protect and indemnify the City and its officers and agents against any claim or liability arising from or based on the violation of any such laws, ordinances, or regulations. Permits and licenses of a temporary nature necessary for the prosecution of the work shall be secured and paid for by the Contractor.

The Contractor must obtain a City of Pendleton Business License.

2:04-L Inspection. The Engineer and Consultant shall at all times have access to the work and the Contractor shall provide adequate and safe facilities for access and inspection.

If any work should be covered up without approval or consent of the Engineer it shall, when requested, be uncovered for examination at the Contractor's expense.

Re-examination of questioned work may be ordered by the Engineer and, if so ordered, the work shall be uncovered by the Contractor. If such work be found in accordance with the Contract

Documents, the City shall pay the cost of re-examination and replacement. If such work be found not in accordance with the Contract Documents, the Contractor shall pay all such costs.

2:04-M Indemnity. The Contractor hereby specifically agrees and covenants to indemnify and save and hold the City of Pendleton, its members, and its agents and employees harmless from any and all acts performed by the Contractor during the course of the Contract.

The City of Pendleton, its members, and its agents and employees, shall not be liable for any loss, injury, death, or damage to persons or property which at any time may be suffered or sustained by the Contractor or by any person whosoever may at any time be participating, viewing, using or occupying or visiting the project site or be in, on, or about the same, whether such loss, injury, death, or damage to person or property shall be caused by or in any way result from or arise out of any act, omission, or negligence of the Contractor or spectator, guest, visitor, user or by any person whosever may at any time be participating, viewing, using or occupying or visiting the project site, or shall result from or be caused by any other matter or thing whether of the same kind as or of a different kind than the matters or things above set forth.

The Contractor shall indemnify the City of Pendleton, its members, and its agents and employees, against all claims, liability, loss, injury, death, or damage to property or persons whosoever on account of any such claim, liability, loss, injury, death, or damage. The Contractor hereby waives all claims against the City of Pendleton, its members, and its agents and employees, from any liability or claim arising from Contractor's use or occupancy of the project site.

2:04-N Payment of Claims. The Contractor shall make payment promptly, as due, to all persons supplying to such Contractor labor or materials for the prosecution of the work provided in the Contract. If the Contractor fails, neglects or refuses to make prompt payment of any claim for labor or services or materials serviced or furnished to the Contractor or to a sub-contractor by any person in connection with this Contract as such claim becomes due, the City may, at its option, pay such claim to the person furnishing the labor, services or material and charge the amount of payment against funds due or to become due the Contractor by reason of this Contract. The payment of a claim in the manner authorized by this section shall not relieve the Contractor or his surety from his or its obligation with respect to any unpaid claims.

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

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

The Contractor will pay to the Oregon Department of Revenue all sums withheld from employees pursuant to Oregon Statutes.

The Contractor shall promptly, as due, make payment to any person, copartnership, association or corporation furnishing medical, surgical and hospital care or other needed care and attention, incident to sickness or injury, to the employees of such Contractor, of all sums which the Contractor agrees to pay for such services and all moneys and sums which the Contractor collected or deducted from wages of employees pursuant to any law, contract or agreement for the purpose of providing or paying for such service.

The final payment or any part of the retained percentage may be withheld upon the option of the City until the Contractor shall submit to the City receipts or releases showing full payment of all claims for labor, services and material relative to this Contract and an affidavit so stating that to his

knowledge and information that such releases or receipt include all labor, services and material furnished in respect to said Contract. Provided that if there are still claims due by the Contractor, the City has the option of paying the person the amount due drawing the check to both the person and the Contractor for the amount due; and if the amount is in dispute, holding the amount in dispute until the matter is settled by the Contractor and the claimant; or the City may, if it so desires, pay the full amount due under the Contract to the Contractor.

2:04-O Sub-Contracting. The Contractor shall, within four (4) working hours of the advertised bid closing date and time, notify the PWD in writing, of the names of the first-tier sub-contractors on the disclosure form enclosed at the end of the General Conditions proposed for the principal parts of the work and for such others as the PWD may direct and shall not employ any that the PWD may within a reasonable time object to as incompetent or unfit.

The Contractor agrees that he is fully responsible to the City for the acts and omissions of his sub-contractors and of persons either directly or indirectly employed by the sub-contractor as though these acts and omissions occurred by the prime Contractor.

Nothing contained in the Contract Documents shall create any contractual relation between any sub-contractor and the City. Any attempt by Contractor to assign all or any portion of the contract is prohibited unless express written consent is given by the City after the City has reviewed such agreement. Any such attempt to assign all or any portion of the contract shall at City's option make this Contract voidable. If the City elects to void the Contract, the Contractor as actual damages agrees to forfeit any and all payment due under this contract and pay to the City all expenses incurred directly or indirectly by City.

If the Contractor or a first-tier subcontractor fails, neglects or refuses to make payment to a person furnishing labor or materials in connection with this contract within thirty (30) days after receipt of payment from the public contracting agency or a contractor, the Contractor or first-tier subcontractor shall owe the person the amount due plus interest charges commencing at the end of the 10-day period that payment is due under ORS 279.445 (4) and ending upon final payment, unless payment is subject to a good faith dispute as defined in ORS 279.445. The rate of interest charged to the contractor or first tier subcontractor on the amount due shall equal three times the discount rate on 90-day commercial paper in effect at the Federal Reserve Bank in the Federal Reserve District that includes Oregon on the date that is thirty (30) days after the date when payment was received from the public contracting agency or from the contractor, but the rate of interest shall not exceed thirty (30) percent. The amount of interest may not be waived.

If the Contractor or a subcontractor fails, neglects or refuses to make payment to a person furnishing labor or materials in connection with the public contract, the person may file a complaint with the Construction Contractors Board, unless payment is subject to a good faith dispute as defined in ORS 279.445. Every contract related to this contract shall contain a clause setting forth this requirement.

If requested in writing by a first-tier subcontractor, the Contractor, within ten (10) calendar days after receiving the request, shall send to the first-tier subcontractor a copy of that portion of any invoice, request for payment submitted to the public contracting agency or pay document provided by the public contracting agency to the contractor specifically related to any labor or materials supplied by the first-tier subcontractor.

2:04-P Taxes and Charges. The Contractor agrees to withhold and/or pay any and all withholding taxes, whether State or Federal, and pay all Social Security charges and also all State Unemployment Compensation charges, and to pay or cause to be withheld, as the case may be, any

and all taxes, charges, or fees or sums whatsoever which are required to be paid or withheld under any laws.

2:04-Q Use of Premises. The Contractor shall confine his apparatus, the storage of materials and the operation of his workmen to limits shown on the Plans as indicated by law, ordinances, permits, or directions of the PWD and shall not unreasonably encumber the premises with his materials. The Contractor shall provide, at his own expense, the necessary rights-of-way and access to the work which may be required outside the limits of the City's property.

The Contractor shall not load or permit any part of the structure to be loaded with a weight that will endanger its safety. The Contractor shall make his own arrangements for off-street parking of equipment. The City shall have the right to take possession of and use any completed or partially completed portions of the work, notwithstanding the time for completing the entire work or such portions may not have expired, but such taking possession and use shall not be deemed an acceptance of any work not completed in accordance with the Contract Documents. The Contractor shall endeavor to keep areas of work open to traffic whenever possible. Incomplete work damaged by traffic or by the public shall be repaired or replaced at the Contractor's expense.

2:04-R Clean-Up. The Contractor shall, as directed by the PWD, remove, at his own expense, rubbish and waste materials resulting from his operations. Upon completion of the project, and prior to final acceptance of the Contract all areas shall be placed in a neat, clean and presentable condition.

2:04-S Hours and Conditions of Employment. No person shall be employed for more than eight (8) hours in any one day, or forty hours (40) in any one week, except in case of necessity, emergency or where the public policy absolutely requires it, and in such cases the laborer shall be paid at least time and a half for all overtime worked in excess of 40 hours in any one week, except for individuals under this contract who are excluded under ORS 653.010 to 653.261 or under 29 U.S.C. sections 201 to 209 from receiving overtime.

2:05 Progress of the Work

2:05-A Prior to Commencement of Project. Before work shall be started and materials ordered, the Contractor shall meet and consult with the City relative to materials, equipment, and all arrangements for prosecuting the work. The Contractor shall commence the work contemplated and complete the same within the time specified in the Contract Document. It is expressly understood that the time of beginning, rate of progress, and time of completion of the work are of the essence of this Contract.

2:05-B Prosecution of the Work. The work shall be prosecuted at such time and in or on such part or parts of the project and with such forces of workers, materials, and equipment as may be ordered by the PWD in writing, to complete the project as contemplated in the Contract Documents.

The Contractor shall perform the work and take such precautions as may be deemed necessary to complete the project so all work will be in first class and acceptable condition within the Contract time.

If the Contractor desires to carry on work at night or outside the regular hours, he may submit application to the PWD and he shall allow 48 hours time to enable satisfactory arrangements to be made for inspecting the work in progress. The Contractor shall be responsible to pay the cost of all over time pay above normal wage rates. If granted permission, he shall illuminate the different parts of the work in a manner satisfactory to the PWD and shall comply with all regulations of the

City, State and Federal governments.

2:05-C Schedule of Work. The Contractor shall furnish the City a written schedule of work, for approval prior to commencement of work. The PWD shall be advised in writing of all significant revisions in this schedule.

2:05-D Contract Assignment. Neither party to the Contract shall assign the Contract or sublet it as a whole without the written consent of the other; nor shall the Contractor assign any monies to become due to him hereunder without the previous written consent of the City. Such attempted assignment may, at the City's option, terminate this Contract as a material breach on Contractor's part.

2:05-E City's Right to Perform Work. If the Contractor should, in the opinion of the PWD neglect to perform the work properly or should neglect or refuse at his own cost to take up and replace work that has been rejected by the PWD, then the City after three (3) days written notice, or without notice if an emergency or danger to the work or public exists, and without prejudice to any other right which the City may have under this Contract, take over that portion of the work which has been improperly executed and make good the deficiencies and deduct the cost thereof from the payments then or thereafter due the Contractor.

2:05-F Suspension of Work. City may suspend work on the project wholly or in part as directed by the PWD pursuant to Subsections 2.03-A-H due to: (1) failure to correct unsafe conditions for working personnel, the general public or City's employees, after two (2) days written notice, or without notice if an emergency or danger to the work or public exists, and without prejudice to any other right which the City may have under this Contract.

The City may immediately suspend work on the project wholly or in part, for such periods as the PWD may deem necessary, pursuant to Subsection 2:03-D for failure to immediately correct defective and unacceptable work.

Suspension or slowdown, with or without City approval and suspension of work ordered by the PWD will not be grounds for claims for damages, idle equipment or labor, or extra compensation. No allowance or compensation will be made on account of such suspensions of work except as provided herein.

At the commencement of and during any suspension of the work, the Contractor shall be responsible for the care of work performed and take every precaution to prevent any damage or deterioration of the work. Contractor shall also be responsible for work, including temporary protection devices to warn, safeguard, protect, guide and inform traffic during suspension, the same as though its performance had been continuous and without interferences.

Contractor shall be responsible and bear all costs for providing suitable provisions for traffic control and for maintenance and protection of the work during suspension.

2:05-G Termination of Contract. All terms and conditions of the Contract are considered material, and failure by Contractor to comply with any of said terms or conditions shall, at City's option, be deemed a breach of contract. Upon such failure, City shall have the right, whether an alternative right is provided or not, to declare the Contract terminated. Issuance by City of an order stating that the Contract is terminated, upon Contractor and his Surety from date of postmark of certified mail shall be deemed a complete termination of the Contract. Upon the Contract being so terminated City may retain all sums due under the Contract and both the Contractor and his Sureties shall be liable under his bond for all losses, expenses and damages caused to City by reason of his

failure to complete the Contract, and Surety shall be required, at City's option, to complete the project. Notwithstanding such termination, Contractor and his Sureties shall remain liable under the terms of the Contract for work performed prior to such termination. The PWD will determine the payment due Contractor for work performed prior to the date of Contract termination.

2:05-H Contractor's Default. If the Contractor should be adjudged bankrupt; or file for bankruptcy; or if he should make a general assignment for the benefit of his creditors; or if a receiver should be appointed on account of his insolvency; or if he should persistently or repeatedly refuse or should fail, except in cases for which extension of time is provided, to supply enough properly skilled workers or proper materials; or if he should fail to make prompt payment to subcontractors or for material or labor; disregard laws, ordinances, or the instructions of the PWD; or otherwise be guilty of a violation of any provision of the Contract or any laws or ordinances, then the City upon the certification of the PWD that sufficient cause exists to justify such action, may, without prejudice to any other right or remedy and after giving the Contractor and Surety seven (7) days written notice, transfer the employment for said work from the Contractor to the Surety. Upon receipt of notice, such Surety shall enter upon the premises and take possession of all materials, tools, and appliances thereon for the purpose of completing the work included under this Contract and employ, by Contract or otherwise, any person or person to finish the work and provide the materials therefor without termination of the continuing full force and effect of this Contract. In case of such transfer of employment to such Surety, the Surety shall be paid in its own name any claim for the same or any part thereof. In lieu of the foregoing, if the City so elects, the City may terminate the employment of the Contractor and take possession of the premises and all materials, tools, and equipment thereon and finish the work by whatever methods the City may deem expedient. In such case, the Contractor shall not be entitled to receive any further payment until the work is finished. If the expense of completing the Contract, including compensation for additional managerial and administrative services, shall exceed such unpaid balance, the Contractor shall pay the difference to the City. The expense incurred by the City, as herein provided, and the damage incurred through the Contractor's default shall be certified by the Public Works Director.

Upon completion of the project by others, Contractor shall be entitled to the return of all material which has not been used in the work or which has not been paid for, and for all plant, tools, equipment and other property, provided, however, that no claim will be allowed because of usual and ordinary depreciation, loss, wear and tear.

None of the foregoing provisions or the provisions in Subsection 2:05-G, shall be construed to require City to complete the work, nor to waive or in any way limit or modify the provisions of the Contract relating to the fixed and liquidated damages suffered by City on account of the failure of Contractor to complete the project within the time prescribed.

2:05-I Delays and Extension of Time. If the Contractor is delayed at any time in the progress of the work by any act or neglect of the City, or by any separate Contractor employed by the City, or by changes ordered in the work, or by strikes, lockouts, fire, unusual delay in transportation, unavoidable casualties or any causes beyond the Contractor's control; or by delay authorized by the PWD; or by any cause which the PWD shall decide justifies the delay, then the date for completion of the work shall be extended for such reasonable time as the City may decide and which the PWD shall approve in writing. No such extension shall be made for delays occurring more than seven (7) days before claim therefor is made in writing to the PWD. In the case of a continuing cause of delay, only one claim is necessary.

If no schedule or agreement stating the dates upon which drawings shall be furnished is made, then no claim for delay shall be allowed on account of failure to furnish drawings until two (2) weeks after demand for such drawings, and then only if such claim be reasonable.

The article does not exclude the recovery of damages for delay by either party under other provisions in the Contract Documents.

2:05-J Liquidated Damages. Time shall be considered the essence of the Contract should the Contractor fail to complete the work, or any part thereof, in the time agreed upon in the Contract or within such extra time as may have been allowed for delays by extensions granted as provided in the Contract, the Contractor shall reimburse the City for the additional expense and damage for every day, Sundays and holidays excluded, that the Contract remains uncompleted after the date of completion given in the Contract. It is agreed that the amount of such additional expense and damage incurred by reason of failure to complete the work is the per diem rate stipulated in the Proposal. The said amounts are hereby agreed upon as actual for the delay that will be substantial, but will be difficult or impractical to determine. It is expressly understood and agreed that this amount is not to be considered in the nature of a penalty, but as liquidated damages which have accrued against the Contractor; and the City is authorized to deduct the amount of such damages from any monies due the Contractor for work performed or material furnished under this Contract, and the Contractor and his sureties shall be liable for any excess.

2:05-K Substantial Completion Date. The Engineer may, at his sole discretion, issue a written notice of substantial completion for the purpose of establishing a date for use of the project or a defined portion of the project and to establish a date for end of the contract length. Said notice shall not be considered as final acceptance of any portion of the work or relieve the Contractor from completing the remaining work with the specified time and in full compliance with the contract documents.

2:05-L Suit or Action. If any action is instituted in connection with any claim or controversy arising out of this agreement, attorney fees may **not** be awarded by the court of competent jurisdiction and each party shall bear its own expenses of such action.

2:05-M Mediation/Arbitration. If any dispute arises between the parties and after mediation, the City may request arbitration and each shall choose an arbitrator, and the two arbitrators shall choose a third. If the choice of the second or third arbitrator is not made within ten (10) days of the choosing of the prior arbitrator, then either party may apply to the presiding judge of Umatilla County to appoint the required arbitrator. If the City does not request arbitration following mediation, jurisdiction of any issue shall be in the Umatilla County Circuit Court.

2:05-N Procedure for Arbitration. At election of the City, the arbitration shall proceed according to the Oregon statutes governing arbitration, and the award of the arbitrators shall have the effect therein provided. The arbitration shall take place in Umatilla County. Costs of the arbitration shall be shared equally by the parties, but each party shall pay its own attorney fees incurred in connection with the arbitration, and no arbitration shall award attorney fees or cost. Any damages awarded shall be limited to actual cost incurred by the prevailing party. The arbitrator shall not have the authority to award consequential damages, lost profits, nor punitive damages.

2:06 Payment.

2:06-A Basis of Payment. In consideration of the faithful performance of all the covenants, stipulations, and agreements in this Contract to be kept and performed by the Contractor, the City covenants and agrees to pay the Contractor, either by City Check or Improvement Warrant, the amount bid as adjusted when so stipulated in the Contractor's Proposal; on the basis of the unit prices named in the Contractor's Proposal for the work actually performed as determined by the final estimate of the PWD together with any amounts due for authorized extra work not classified under the items listed in the Contractor's Proposal as provided in Sec. 2:06-D of these General Conditions;

less any deduction for failure to complete the work within the time specified; and less any deductions for claims and damages paid by the City due to acts or omissions of the Contractor and for which he is liable under this Contract.

2:06-B Appropriate Funds. If the City does not appropriate funds for the next succeeding fiscal year to continue payments required by this Contract, this Contract will terminate at the end of the last fiscal year for which funds have been appropriated. The City will notify Contractor of such non-appropriation not later than thirty (30) days before the beginning of the year within which funds are not appropriated. This provision does not permit the City to terminate this Contract in order to provide similar services for the purpose for which this Contract has been entered into.

2:06-C Partial Payment. So long as the work herein contracted is prosecuted in accordance with the provisions of this Contract, the Contractor may, within the first five (5) days of each calendar month, deliver to the PWD a written estimate of the proportionate value of the work done and of material furnished or delivered applicable to the contract up to the last day of the preceding month. If the Contract price is determined on a unit price basis, this progress payment will be made on the basis of these unit prices. If the Contract price is determined on a lump sum basis, this payment will be made on the basis of an estimated cost schedule, covering the entire job, which shall be prepared by the Contractor and approved by the PWD before the start of the work.

The Contractor's estimate shall be verified or adjusted by the PWD. The amount of said estimate, after deducting five percent (5%) and all previous payments, shall be due and payable to the Contractor by City Check or Improvement Warrant, not more than ten (10) days after receipt of the Contractor's estimate. However, any estimate delivered by the Contractor to the PWD after the fifth day of the month shall not be paid until the succeeding month. The five percent (5%) deducted, as above set forth, shall be withheld by the City as protection against an improper act or omission on the part of the Contractor.

Nothing contained in this article shall be construed to affect the right, hereby reserved, to reject the whole or any part of the aforesaid work should such work be later found not to comply with the provisions of the Contract Documents.

2:06-D Deferment of Payments. No partial or final payment will be made until all orders made by PWD to Contractor in accordance with the Specifications are complied with, nor until all claims or liens filed or prosecuted against City, its officer or employees contrary to provisions of the Contract are satisfied.

Contractor will not be entitled to anticipated profits, or other additional payment as a result of the withheld progress payment, nor will the necessary changes in the work schedule, due to suspension of work, Sub-section 2:05-F, be cause for extension of contract completion time.

In the event a complaint or charge of unlawful employment practices pursuant to the provisions of ORS Chapter 659 is filed against the Contractor by anyone, including the City, and the Commissioner of Labor issues a cease and desist order as defined in ORS Chapter 459, no further payments will be made on the Contract until such time as all of the provisions of the cease and desist have been complied with by Contractor.

2:06-E Extra Work. Any authorized work necessary or required to carry out the intent of these Contract Documents by changes clearly not indicated in the Contract Documents shall be paid for at the unit price agreed to in the Contract Documents. If this work cannot be classified under any of the items for which unit prices are listed in the Contractor's Proposal, it shall be paid for as extra work at the rate agreed to in writing between the Contractor and the City prior to the time of

commencing such extra work. If such method of payment cannot be agreed upon prior to the beginning of the work, then such work shall be performed by the Contractor on the basis of furnishing labor and material at costs and labor rates in effect at the time the work is accomplished.

Labor shall include:

a. Wages - the actual wages paid to laborers and supervisors, if those wages are paid at rates not more than those for comparable labor currently employed on the project, or at the recognized, current, prevailing rates in the locality of the project.

b. Required Contributions - The actual cost of industrial accident insurance, unemployment compensation contributions, payroll transit district taxes and social security for old age assistance contributions incurred or required under statutory law and these specifications. The actual cost of industrial accident insurance is the National Council on Compensation Insurance (NCCI) rate for the assigned risk pool for the appropriate work class multiplied by the experience modification factor for the Contractor.

c. Required Benefits - The actual amount paid to, or in behalf of, workers by reasons of subsistence and travel allowances, health and welfare benefits, pension funds benefits, or other benefits when such amounts are required by collective bargaining agreement or other employment contract generally applicable to the classes of labor employed on the work.

An additional allowance of twenty percent (20%) shall be allowed on the total of labor including labor burden and fifteen percent (15%) shall be allowed on total materials, to cover profit, superintendence, and general expense. A breakdown of the Contractor's cost involved in any approved extra work shall be submitted to the PWD within forty-five (45) days after said extra work has been performed.

The Contractor will be paid for the use of equipment on the basis of, but not exceeding, the prevailing hourly rental rates established by the Oregon State Highway Division and recognized by the Associated General Contractors and agreed upon in writing by the Engineer prior to start of force account work. Rental time will not be allowed while equipment is inoperative for periods in excess of 30 minutes. The rental rates paid as above provided shall include the cost of fuel, oil, lubrication, supplies, small tools, necessary attachments, repair, and maintenance of any kind, depreciation, storage, insurance and all incidentals.

No payment will be made for extra work billed and submitted to the PWD after the 45-day period has expired. No extra work shall be performed by the Contractor, except in an emergency endangering life of property, unless in issuance of a written order, as provided in Section 2:03-A of these General Conditions.

2:06-F Changed Conditions. If latent physical conditions are encountered at the site differing materially from those indicated in the Contract, or unknown physical conditions of an unusual nature, differing materially from those ordinarily encountered and generally recognized as inherent in work of the character provided for in the Contract, and such changed or unusual conditions are desired to be considered as the basis for a claim for extra compensation, Contractor shall notify PWD of the alleged conditions in writing within seven (7) calendar days of such encounter. Changed conditions that occur as a result of any negligence or inattention on the part of Contractor or his agent shall not be considered eligible for extra payment.

If written notice is not given within the specified seven (7) days, Contractor will be deemed to have waived any claim or claims for extra compensation in any manner arising out of the changed or

unusual conditions.

If PWD determines the conditions to be such as to justify a claim for additional compensation, he may provide for additional payment for the particular phase of work in question, or by any other equitable arrangement mutually agreed upon by City and Contractor and consented to in writing by the surety to the bond if necessary. In any event, Contractor shall not be relieved from his obligation to resume construction operations pending a decision as to the validity of a claim, or pending the execution of a negotiated agreement to cover additional costs of a claim recognized under the provisions of this section, unless permitted to do so by City.

2:06-G Final Payment. Upon completion of the work, the Contractor shall notify the City in writing that he has completed his part of the Contract and shall request final payment. When the work has been completed to the satisfaction of the PWD, he shall submit a certificate of acceptance of the Contractor of the completed work, together with a final estimate by the City. After the City has received the receipts or releases as required under Section 2:04-N of these General Conditions, the City shall pay to the Contractor all monies remaining due him under the provisions of these Contract Documents.

2:06-H Acceptance of Final Payment. Acceptance by Contractor of final payment shall release City and PWD as agent of City from all claims and all liability to Contractor for all things done or furnished in connection with the work, and every act of City and others relating to or arising out of the work. No payment, however, final or otherwise, shall operate to release Contractor or his Sureties from obligations under the Contract and the performance, payment, and other bonds and warranties as herein provided.

2:07 State Laws.

2:07-A Applicability of State Law. All provisions of the Contract are governed by Oregon State Law including those provisions relating to public contracts for cities and those provisions of the City of Pendleton Charter and Ordinances are a part of this Contract, the same as if the provisions of said chapter were set out fully herein, and the bidder or Contractor represents by his submitting his bid concerning this Contract that he is familiar with the provisions of said Laws. Venue for any legal action under this contract shall be in Pendleton, Umatilla County Circuit Court for the State of Oregon.

The Oregon Government Standards and Practices laws shall apply to Contractor. ORS 244.040(1)(a) prohibits any government officer, employee or agent from using the governmental relationship to obtain a financial gain or avoid a financial detriment that would not otherwise be available but for the governmental relationship. For further information on this matter, Contractor may contact the Oregon Government Standards and Practices Commission, 100 High Street SE, Suite 220, Salem, OR 97310; phone (503) 378-5105.

2:07-B Governing Law/Venue. This agreement and the parties rights under it shall be construed and regulated by the laws of the State of Oregon and venue for any dispute hereunder shall lie in Pendleton, Umatilla County, Oregon.

FIRST-TIER SUBCONTRACTOR DISCLOSURE FORM
(OAR 137-040-0017)

Bids which are submitted by Bid Closing, but for which a required disclosure submittal has not been made by the specified Disclosure Deadline, are not responsive and shall not be considered for Contract award

AGENCY SUPPLIED INFORMATION:

PROJECT NAME: _____

BID #: _____ BID CLOSING: Date: _____ Time: _____ ☐AM ☐PM

REQUIRED DISCLOSURE DEADLINE: Date: _____ Time: _____ ☐AM ☐PM

Deliver Form To (Agency): _____

Designated Recipient (Person): _____ Phone #: _____

Agency's Address: _____

_____

_____

INSTRUCTIONS:

The contracting agency will insert "N/A" above if the contract value is not anticipated to exceed $100,000. Otherwise this form must be submitted either with the bid or within two (2) working hours after the advertised bid closing date and time; but no later than the DISCLOSURE DEADLINE stated above.

Unless otherwise stated in the solicitation, this document shall not be submitted by facsimile. It is the responsibility of bidders to submit this disclosure form and any additional sheets, with the bid number and project name clearly marked, at the location indicated by the specified disclosure deadline. See "Instructions to Bidders".

List below the Name, Category of Work add Dollar Value for each first-tier subcontractor that would be furnishing labor, or labor and material, for which disclosure is required. Enter the word "NONE" if there are no first-tier subcontractors subject to disclosure. ATTACH ADDITIONAL SHEETS IF NECESSARY.

BIDDER DISCLOSURE:

	SUBCONTRACTOR NAME	CATEGORY OF WORK	DOLLAR VALUE
1.			
2.			
3.			
4.			
5.			
6.			

The above listed first-tier subcontractor(s) are providing labor, or labor and material, with a Dollar Value equal to or greater than:

a) 5% of the total Contract Price, but at least $15,000. [If the Dollar Value is less than $15,000 do not list the subcontractor above.]

or

b) $350,000 regardless of the percentage of the total Contract Price.

Form Submitted By (Bidder Name): _____

Contact Name: _____ Phone #: _____