REGULAR MEETING NOTICE/AGENDA OF THE Northeast Public Development Authority (PDA)

MEETING OF Friday, October 9th, 2026, 10:30 A.M. – Northeast PDA Offices

A regular meeting of the Northeast PDA will be held at **10:30 A.M. on Friday, October 9th, 2026**, at the Northeast PDA's offices – 5006 N Market Street – or virtually via Zoom (link in agenda).

The meeting will be conducted in a regular format and will be open to the public. Public testimony will be taken, and discussion will be limited to appropriate officials and staff.

Executive Session
At any time during or after the regular agenda, the NEPDA Board may choose to adjourn into Executive Session for the purpose of discussing privileged legal matters. This portion of the meeting would be closed to the public.

NORTHEAST PUBLIC DEVELOPMENT AUTHORITY (NEPDA)
REGULAR BOARD MEETING AGENDA

Date: October 9, 2026
Time: 10:30 AM to 12:30 PM (Pacific Time)
Location: Northeast PDA Office – 5006 N. Market St., or virtual via Teams
Join Teams Meeting:
https://teams.microsoft.com/meet/23381192940894?p=YLo4ha8Ok8eHf1tBUz

Attendees: Northeast Public Development Authority Board of Directors, Staff, Invitees, and Guests

Discussion Items:

10:30-10:35 AM	**Welcome and Introductions**
	Approval of Minutes: 1. Approval of meeting minutes from August 14th, 2026
	Public Comment
10:35 AM – 10:45 AM	**Accounting Services Agreement** **Action Item: Resolution 2026-009:** A RESOLUTION of the Northeast Public Development Authority Board of Directors awarding a Professional Services Agreement to Teresa D Johnson CPA, Inc. ("TDJCPA") for accounting services, and other matters relating thereto.
10:45 AM – 10:55 AM	**Financial Management Policy Amendment** **Action Item: Resolution 2026-010:** A RESOLUTION of the Northeast Public Development Authority to adopt an amendment to its existing Financial Management Policy to ensure compliance with existing law.
10:55 AM – 11:05 AM	**3011 PDB Contract Amendment** **Action Item: Resolution 2026-011:** A RESOLUTION of the Northeast Public Development Authority Board of Directors authorizing the Executive Director to execute a Design-Build Agreement with Bouten/Architects West (the "PDB Team") for the 3011 Wellesley Project (the "Project") and other matters relating thereto.

11:05 AM – 11:15 PM	**2027 NEPDA Work Plan/Budget Workshop** 1. 2026 Lookback 2. Overview of 2027 Plan/Budget 3. Major Initiative – Marketing, Dee Boyle – Defind Studio 4. Major Initiative – Hillyard Creative District, Darya Pilram & Marit Fischer
12:15 – 12:30 PM	**General Matters** 1. Financials 2. Events Recap 3. Upcoming Items
12:30 PM	**Other Business, Closing**

Next Meeting: November 13**,** 2026, 10:30 AM – 12:00 PM

DISCLOSURES

AMERICANS WITH DISABILITIES ACT (ADA) INFORMATION: The City of Spokane is committed to providing equal access to its facilities, programs and services for persons with disabilities. Individuals requesting reasonable accommodations or further information may call, write, or email Risk Management at 509.625.6221, 808 W. Spokane Falls Blvd, Spokane, WA, 99201; or mlowmaster@spokanecity.org. Persons who are deaf or hard of hearing may contact Risk Management through the Washington Relay Service at 7-1-1. Please contact us forty-eight (48) hours before the meeting date.

EXECUTIVE SESSION: An Executive Session may be called during the meeting. The purpose must be announced and is limited by RCW 42.30.110. Examples include: (1) to discuss with legal counsel litigation, potential litigation and/or legal risks (RCW 42.30.110(1)(i)); (2) to consider the acquisition of real estate by lease or purchase when public knowledge regarding such consideration would cause a likelihood of increased price (RCW 42.30.110(1)(b)); and (3) to consider the minimum price at which real estate will be offered for sale or lease when public knowledge regarding such consideration would cause a likelihood of decreased price (final action selling or leasing public property shall be taken in a meeting open to the public)(RCW 42.30.110(1)(c)).

NORTHEAST PUBLIC DEVELOPMENT AUTHORITY
August 14, 2026 Board Meeting Minutes

Date: August 14, 2026
Time: 10:32 a.m.
Location: NEPDA Office, 5006 N. Market St., Spokane, WA, and via Zoom

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Attendees

NEPDA Board of Directors

- Josh Kerns, Vice Chair
- Marlene Feist, Secretary-Treasurer (joined via Zoom)
- Kyle Twohig, Member
- Shelli Sonderen, Member

Absent: Michael Cathcart, Chair; Jacob Parks, Member; and Ryan Arnold, Member

Board Staff

- Jesse Bank, Executive Director
- Jared Aranda, Director of Public Finance
- Kelly McGinley Ashe, Administrative Manager
- Megan Clark

Guests/Presenters

- Darya Pilram, GSI Regional Fellow, Hillyard Creative District
- Ron Valencia, Spokane County

1. Welcome and Introductions

The meeting was called to order at 10:32 a.m. Board members and staff introduced themselves; Kyle Twohig introduced himself as a new board member and noted he serves as Public Works Director for Spokane County.

Approval of Minutes

A quorum was not yet present online at the start of the meeting, so approval of the June 12, 2026 minutes was held until later in the meeting, once Ms. Feist joined via Zoom. Mr. Kerns then moved to approve the June 12th minutes; the motion was seconded. Because Mr. Twohig was not present at the June meeting, he abstained. The motion passed 3 ayes, 0 nays, 1 abstention.

Public Comment

No public comments were offered.

2. HCD Mid-Year Update

Darya Pilram, the GSI-hosted regional fellow supporting the Hillyard Creative District, presented a mid-year update on the district's progress under a two-and-a-half-year federal fellowship program (administered through GSI and the Coeur d'Alene Economic Development group) focused on creative-economy recovery in Eastern Washington. Highlights included:

- Spokane's first state-certified creative district, achieved in eight months versus the typical two-to-three-year timeline; the state board called it one of the strongest economic development plans it has evaluated.

- Roughly $500,000 deployed to date, combining ARPA funds, Washington State Arts money, and Vista/Smart Arts grant funding, supporting a mural apprenticeship pilot and a wayfinding/signage program.
- Six previously vacant storefronts converted to new creative businesses in the last six months (including a dance studio, Quilter's Corner, Streetwear by Nikola, Mixed Palette, Uptown Creations Ceramics, and Farrell Notions).
- New business-support infrastructure: an MOU with Spokane Public Library, monthly business support office hours, and a Gonzaga New Venture Hub partnership with a dedicated slot reserved for Hillyard businesses.
- Catalyzed events and investment, including Tacos y Tequila relocating to Hillyard, the first Spokane Pride festival in Hillyard (planned for September 18), and the 115-year-old Hi-Jinx Parade, which NEPDA took on this year and which drew strong turnout.
- National recognition, including selection as a showcase for the Milken Institute's National Corridor Forum and invited speaking engagements with Americans for the Arts and the National Reclaiming Vacant Property Conference.
- The fellowship concludes October 31, 2026; the district is transitioning to a formal nonprofit board and organization, with two founding directors already seated.
- A one-year anniversary celebration is planned for the September 17 Third Thursday event, with council members and the mayor expected to attend.
- The district is seeking bridge funding to cover a gap in operating costs (internet, utilities) between now and year-end, and was selected to participate in a national capital investment accelerator fund with the International Economic Development Council and the Kresge Foundation.

Board Discussion: members asked about the origin of the fellowship program; Ms. Pilram clarified that GSI is her host organization and nominated the region for the federal Economic Development Administration grant based on the Thrive Spokane regional economic development strategy (SEDS) document. Board members noted this connection had not been clearly communicated in prior updates. The $5,000 bridge funding request was addressed later as part of the 2026 budget amendment (Item 4).

3. Mid-Year Organizational Update

3.1. 3011 Wellesley

Mr. Bank reported that the New Markets Tax Credit (NMTC) process is progressing quickly; NEPDA has onboarded NMTC counsel and NMTC accounting, both funded cash-flow-neutral out of NMTC proceeds. Initial lender conversations are underway, with term sheets expected by the end of September and a target closing in October, potentially slipping to November. Schematic design has concluded and the project has moved into design development, with a target of permits by year-end and a groundbreaking around March, weather permitting. The design-build team is led by Bowden, with Architects West as architect. Prevailing wage classification (commercial vs. residential) has been a prolonged issue with L&I but is nearing resolution. Site signage is up, an initial site cleanup has been completed, and the SEPA application has been submitted. As previously discussed, NEPDA's office will relocate into the 3011 building once complete, in part to satisfy NMTC commercial-revenue percentage requirements.

3.2. ARPA – Biz District

Mr. Bank reported that NEPDA is nearing completion of its deployment of City ARPA allocation dollars, which have funded much of the Hillyard Creative District's programming (NEPDA acts as fiscal sponsor while the Creative District organization completes its own formation). Board members noted that ARPA revenue and expense entries recorded in the budget net to zero, since NEPDA passes those funds through.

3.3. Façade Grants

The original $120,000 ARPA facade grant allocation was fully subscribed; NEPDA secured an additional $20,000 from ARPA funders to cover an additional application. A further $100,000 PDA-sponsored second round of facade

grant funding opened this year and was fully subscribed within about a week, generating an estimated additional $40,000–$50,000 in private investment. Most facade projects are complete or nearly complete, with property owners not required, but strongly encouraged, to provide matching funds.

3.4. CERB Study – Yard Repositioning

The consultant-led CERB study to translate the sub-area plan's recommendations for the rail yard area into concrete implementation steps is substantially complete. The project team is moving into prioritizing investment moves, identifying potential first-mover projects, and assembling grant, state, and other funding sources, and considering how this work ties into activity on the Hillyard side of the freeway.

3.5. Infrastructure Projects

Wellesley Avenue roadway, sidewalk, and streetscape improvements are essentially complete, and the related right-of-way acquisition process concluded without significant issues. The team is awaiting Beacon Hill's extension of Valley Springs Road down the hill to connect through to Freya, and noted related improvements at Freya and Garland tied to the Esmeralda Commerce Park project.

3.6. Large Projects Coordination

Staff highlighted continued momentum on large projects in the district, including the Esmeralda Commerce Park project (approximately 10 acres, intermodal logistics), which has broken ground on its first phase, and continued build-out and strong lease-up at The Vistas.

The Board also discussed a proposed large-scale data center project on a contaminated former industrial site within the district. Mr. Bank noted the site carries an estimated one million cubic yards of heavy-metal contamination above the aquifer, with cleanup costs exceeding $10 million; absent a large, capital-intensive project, there is no clear path to remediation. He described potential benefits (estimated $2–4 million per year in additional property tax and $80–100 million in construction-related tax revenue) alongside community concerns regarding water usage and the developer's handling of its public announcement. Mr. Bank emphasized that NEPDA's current posture is to listen and gather information without taking a position, noting Ms. Clark's involvement in monitoring the matter. No board action was taken.

Staff also noted a small City-owned parcel near the intersection of Market and Magnesium (adjacent to a BPA substation) is expected to be declared surplus; NEPDA plans to make an offer and anticipates negotiating on price.

4. Budget Amendments: Resolution 2026-006

Mr. Aranda presented proposed amendments to the 2026 budget (as adopted in January), covering both revenue and expense true-ups. On the revenue side, amendments largely reflect previously contemplated but unbudgeted or revenue-neutral items, including an additional $20,367 facade grant award, $238,367 in ARPA-funded creative district programming, a Numerica HCD sponsorship, ArtsWA capital grant funds, and Hi-Jinx Parade revenue. On the expense side, amendments included a modest increase in office lease cost, a new janitorial line item, a substantial increase in accounting costs associated with the transition to a new accounting firm, a modest insurance increase, offsetting true-ups tied to the revenue-side ARPA and grant items, increased 3112 Olympic property maintenance and security costs, an increase to business/community district support (from $10,000 to $17,500, covering the parade and other festivals), increased conference and travel costs, and $5,000 in bridge funding for the Hillyard Creative District, per Ms. Pilram's presentation and board discussion. Staff confirmed that all ARPA-related revenue and expense entries net to zero and are being formally recorded for transparency.

A motion was made to approve Resolution 2026-006, a resolution of the NEPDA Board of Directors amending NEPDA's 2026 budget as presented. The motion was seconded. Hearing no discussion, the motion passed 4 ayes, 0 nays.

5. Policy Amendments: Resolution 2026-007

Staff proposed a minor language change to NEPDA's Procurement Policy, revising the requirement to obtain three quotes for purchased and personal services to a requirement to “make every effort” to obtain at least three quotes,

reflecting recent experience with the accounting and marketing RFPs. The change does not apply to architectural/engineering (A&E) services, which remain governed separately under RCW 39.80.

A motion was made to approve Resolution 2026-007, a resolution of NEPDA to amend its existing Procurement Policy as presented. The motion was seconded. Hearing no discussion, the motion passed unanimously, 4 ayes, 0 nays.

6. Banking Move: Resolution 2026-008

As discussed at previous board meetings, NEPDA has selected RiverBank for its banking relationship. Staff presented the associated banking resolution required by RiverBank, identifying authorized signers on NEPDA accounts (as drafted, Mr. Bank and Ms. Feist as Secretary). The Board discussed adding the Vice Chair as an additional authorized signer to ensure availability across city and county representation, noting these designations will need to be revisited annually as officer roles rotate.

Mr. Twohig moved to approve Resolution 2026-008 as amended, adding Vice Chair Josh Kerns as an additional authorized signer on all NEPDA accounts held at RiverBank. The motion was seconded. Hearing no further discussion, the motion passed 4 ayes, 0 nays.

7. General Matters

7.1. Financials Review

Mr. Aranda reviewed year-to-date financials, noting that reported figures continue to be updated to properly account for ARPA and Arts-related activity, and that the Authority is still awaiting sales tax allocations from both the City and County, which are approximately two quarters in arrears due to delays at the Department of Revenue (DOR) in producing underlying data. Staff and board members discussed pursuing a legislative fix requiring DOR to produce this data on a more timely basis, and agreed to approach a member of the local legislative delegation about sponsoring a bill next session. On the balance sheet, NEPDA continues to carry a healthy reserve; a reported net loss of roughly $521,000 year-to-date was noted as overstated due to City and County payments in arrears. Mr. Aranda also reported that transitioning away from NEPDA's outgoing accountant has surfaced a number of bookkeeping issues that staff are working through ahead of the accountability audit expected in October, covering 2023–2025 (NEPDA remains under the threshold for the more stringent audit tier); the State Auditor's Office has indicated not all prior filings can be amended before the audit, so staff will complete one amended filing. A new accounting platform is expected to substantially streamline SAO reporting going forward.

7.2. Accounting Procurement

Proposals for accounting services have been received, and staff are conducting candidate interviews next week.

7.3. Marketing Procurement

A contract has been executed with the selected marketing coordinator candidate, who will begin standing up outbound communications processes and will periodically join future board meetings; she is also expected to be involved in communications related to the proposed data center project.

7.4. Upcoming Events

The Tacos y Tequila festival is relocating to Hillyard later this month. The Hi-Jinx Parade, which NEPDA took on this year, was reported to be a strong success with high attendance and positive community feedback.

Other Business, Closing

With no further business, the meeting was adjourned at approximately 12:01 p.m.

Next Meeting: September 11, 2026, 10:30 AM – 12:00 PM

NORTHEAST PUBLIC DEVELOPMENT AUTHORITY
RESOLUTION NO. 2026-009

A RESOLUTION of the Northeast Public Development Authority (the "NEPDA") Board of Directors awarding a Professional Services Agreement to Teresa D Johnson CPA, Inc. ("TDJCPA") for accounting services, and other matters relating thereto.

WHEREAS, the NEPDA was originally established by City of Spokane Ordinance No. C-34813 on December 12, 2011 and reformed by the Interlocal Agreement between the City of Spokane and Spokane County through City of Spokane OPR #2019-0928 and Spokane County Resolution #19-1390 to assist the City of Spokane and Spokane County to facilitate economic development of the Northeast area of the City and County;

WHEREAS, on May 26th, 2026, the NEPDA issued a Request for Qualifications (RFQ) for accounting services;

WHEREAS, the solicitation ended on July 27th, 2026, and three (3) responsive statement of qualifications (SOQ) were received from responsible proposers;

WHEREAS, NEPDA staff conducted interactive meetings with the three proposers to evaluate their qualifications and ensure proposed scopes and pricing were in alignment with the NEPDA's expectations;

WHEREAS, the NEPDA staff reviewed and evaluated the three proposers on August 24th, 2026. The evaluation was based upon criteria established by the RFQ, including: project understanding and approach, relevant experience, staff experience, completeness of SOQ, and price proposal, as well as the interactive meetings with each finalist;

WHEREAS, based upon the evaluation, the NEPDA Executive Director recommends the Board award a Professional Services Agreement to TDJCPA attached hereto and incorporated herein by reference as **"Exhibit A;"**

BE IT RESOLVED, pursuant to the authority provided in the NEPDA's bylaws, policies, and procedures, the Board of Directors hereby approves the recommendation of the Executive Director, and awards the Professional Services Agreement to TDJCPA attached as **"Exhibit A."**

BE IT FURTHER RESOLVED, that the Executive Director and officers of the NEPDA are hereby authorized and directed to take all action necessary and proper to effectuate the foregoing; and

BE IT FURTHER RESOLVED, any actions of the Executive Director, Board of Directors or staff of the NEPDA prior to the date hereof and consistent with the terms of this resolution are ratified and confirmed.

ADOPTED by an affirmative majority vote of the Board of the Northeast Public Development Authority on the 9th day of October, 2026.

NORTHEAST PUBLIC DEVELOPMENT AUTHORITY

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BOARD CHAIR

CERTIFICATE

I, the undersigned, Secretary of the Northeast Public Development Authority Board of Directors, a municipal corporation organized under the laws of the State of Washington, do hereby certify that the foregoing resolution was duly approved and adopted by the Board of Directors of the corporation at a meeting of the Board of Directors duly called and held on the 9th day of October, 2026, at which meeting a quorum was present; and that said resolution, as set out above, will appear in the minutes of said meeting in the corporation's minute book.

DATED this _____ day of _____, 2026.

_____
SECRETARY

EXHIBIT A

NORTHEAST PDA

SERVICES AGREEMENT

PROFESSIONAL ACCOUNTING, CONSULTING, AND BOOKKEEPING SERVICES
CONTRACT # 17

THIS AGREEMENT is made by and between Northeast Public Development Authority, a Washington public development authority ("NEPDA"), and Teresa D. Johnson CPA, Inc. ("Contractor"), jointly referred to as the "parties."

IN CONSIDERATION of the following terms and conditions the parties agree:

1. Scope of Work to Be Performed. The Contractor will provide all labor, services, and material to satisfactorily complete the “Work” as described in the "Scope of Work", attached hereto and incorporated herein as **Exhibit A**.

A. Administration. The Executive Director (which term includes designee) shall administer this Contract and is the only NEPDA representative authorized to execute amendments, authorize compensation above the not-to-exceed amount, or otherwise obligate NEPDA. The Director of Public Finance shall serve as NEPDA's primary day-to-day contact for financial, accounting, and technical matters under this Agreement.

B. Representations. NEPDA has relied upon the qualifications of the Contractor in entering into this agreement. By execution of this agreement, Contractor represents it possesses the ability, skill, and resources necessary to perform the Scope of Work and is familiar with all current laws, rules, and regulations which reasonably relate to the Scope of Work.

The Contractor shall use the care and skill ordinarily used by members of Contractor’s profession practicing under similar circumstances at the same time and in the same locality in performing the Work.

C. Modifications. The Scope of Work may be added to, modified, or changed only by written agreement of the parties. No material expansion of scope or increase in the authorized not-to-exceed amount is effective unless approved in writing by the Executive Director. The parties shall, in good faith, adjust compensation for mutually agreed reduced or additional work.

2. Term. This Agreement shall commence upon execution by both parties and continue through August 31, 2027, unless terminated sooner in accordance with Section 8. Preparation of the August 31, 2026 monthly financial statement is included as an opening-period deliverable notwithstanding the date of execution. All terms and conditions of this Agreement shall remain in effect during the Term except as amended in writing.

3. Compensation. NEPDA agrees to pay Contractor for services performed under this Agreement in accordance with Exhibit B. Total compensation shall not exceed $91,067 without NEPDA's prior written authorization. Contractor compensation is subject to allowable additions and deductions as provided in this Agreement.

3.A. Budget Authorization. NEPDA's obligations for services performed in any future fiscal year are contingent upon the lawful appropriation and authorization of sufficient funds in

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NEPDA's adopted budget. Nothing in this Agreement shall constitute an obligation of funds beyond amounts lawfully appropriated and available.

4. Payment. Contractor shall submit monthly invoices for services performed to the Executive Director or designee. Invoices shall identify the services performed, personnel category, hours, applicable rates, and any authorized reimbursable expenses. NEPDA shall pay undisputed amounts within thirty (30) days of receipt.

NEPDA reserves the right to withhold payment under this agreement which is determined in the reasonable judgment of the Executive Director to be noncompliant with the Scope of Work, local, federal, or state standards.

The granting of any progress payments by NEPDA, or the receipt thereof by Contractor, shall not constitute acceptance of the Work performed by the Contractor, or any portion thereof, and shall in no way lessen the liability of the Contractor to re-perform Work which does not conform with this Agreement.

5. Notice. Notice shall be given in writing as follows:

TO NEPDA:	TO the Contractor:
Name: Jesse Bank Executive Director	Name: Teresa D. Johnson, CPA President
Phone No: (509) 795-0290	Phone No: (360) 904-0972
Address: 5006 N. Market Street Spokane, WA 99217	Address: 6012 NW 169th Street Ridgefield, WA 98642
Email: jesse.bank@northeastpda.com	Email: teresa@tdjcpa.com

Notice shall be deemed sufficient if given (1) in person, (2) by regular mail, (3) by email, addressed to the respective contact set forth above, or as may be revised by like notice from time to time. Day-to-day financial and technical coordination for NEPDA may be directed to Jared Aranda, Director of Public Finance. This designation does not authorize the Director of Public Finance to execute amendments or otherwise obligate NEPDA beyond authority delegated in writing by the Executive Director.

6. Applicable Laws and Standards. The parties, in the performance of this agreement, agree to comply with all applicable Federal, State, Local laws, ordinances, and regulations.

7. Relationship of the Parties. It is hereby understood, agreed and declared that the Contractor shall be an independent contractor and not the agent or employee of NEPDA, that NEPDA is interested in only the results to be achieved and that the right to control the particular manner, method, and means in which the services are performed is solely within the discretion of the Contractor. Any and all employees who provide services to NEPDA under this agreement shall be deemed employees solely of the Contractor. The Contractor shall be solely responsible for the conduct and actions of all employees under this agreement and any liability that may attach thereto.

8. Termination.

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A. A. Convenience. Either party may terminate this Agreement for convenience upon thirty (30) days' written Notice of Termination. Contractor shall be paid in accordance with this Agreement for authorized services performed through the effective date of termination. If Contractor has property or client records belonging to NEPDA in its possession, Contractor shall account for and return them to NEPDA. Upon termination, the parties will reasonably cooperate in transitioning NEPDA's accounting records, credentials, schedules, pending transactions, and other client records necessary for continuity of operations. Nothing in this subsection prevents Contractor from withdrawing sooner when required by applicable professional standards or law.

B. Default, Breach, or Cause. NEPDA may terminate this Agreement for default, breach or cause in the event the Contractor fails to perform a material obligation hereunder, or fails to comply with any provision of this Agreement. Termination shall be effected by serving a Notice of Termination setting forth the manner in which the Contractor is in default or breach, and the effective date of termination. The Contractor will only be compensated for the performance of Work delivered to and approved by NEPDA in accordance with the manner of performance set forth in the Scope of Work, subject to setoff for damages caused to NEPDA. If it is later determined, in the sole discretion of NEPDA, that the Contractor had an excusable reason for non-performance which is not the fault of, or beyond the control of, the Contractor, after establishing a new performance and/or delivery schedule, NEPDA may permit the Contractor to continue the performance of Work under this Agreement or treat the termination as a termination for convenience.

NEPDA, in its sole discretion, may allow the Contractor an appropriate period of time, as solely determined by NEPDA, in which to cure the breach or default in its performance of Work. In such case, the NOT shall state the time period in which the breach or default shall be cured and the appropriate conditions to satisfy such opportunity to cure. If the Contractor fails to remedy to NEPDA's satisfaction the breach or default within the stated time period of remedy, NEPDA shall have the right to terminate this Agreement without further obligation to the Contractor. Any such termination for default shall not in any way operate to preclude NEPDA from also pursuing all available legal remedies against the Contractor and its sureties for said breach or default.

9. Ownership of Documents, Information and Data. NEPDA shall retain ownership of its source records, accounting data, and deliverables prepared specifically for NEPDA under this Agreement. Contractor retains ownership of its professional workpapers, pre-existing templates, methodologies, and proprietary materials, subject to applicable professional standards. Contractor shall provide NEPDA copies of client records and deliverables reasonably necessary for NEPDA's operations, audit, regulatory, grant, and records-management obligations. Nothing in this Agreement shall prohibit NEPDA from retaining, reproducing, using, or disclosing materials as reasonably necessary for NEPDA's governmental operations or as required by applicable law, audit or regulatory requirements, public records requirements, or funding agreements.

10. Audits, Inspections, and Retention of Records. Contractor shall maintain records reasonably necessary to document performance and charges under this Agreement for at least three (3) years after expiration or termination, or longer when required by applicable law, grant or funding requirements, or a pending audit, claim, or litigation. NEPDA, the State, the State Auditor, and their authorized representatives may examine records reasonably related to services and

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charges under this Agreement during normal business hours. Contractor professional workpapers remain subject to applicable professional standards and shall be provided only to the extent required by law, regulation, professional standards, or mutual agreement.

If any litigation, claim, audit, or records-retention requirement involving records related to this Agreement remains pending at the end of the applicable retention period, Contractor shall retain the affected records until the matter is resolved or the longer applicable retention requirement is satisfied.

Public Records Act and Records Retention. Nothing in this Agreement shall limit NEPDA's obligations under chapter 42.56 RCW, applicable records-retention requirements, audit requirements, or grant and funding agreements. Contractor acknowledges that NEPDA is a public agency subject to the Washington Public Records Act ("PRA") and applicable public records retention requirements. Records prepared, owned, used, or retained by NEPDA in connection with this Agreement may constitute public records subject to disclosure unless an exemption or other prohibition against disclosure applies.

The Contractor shall maintain records relating to the performance of this Agreement in accordance with applicable federal, state, and local records retention requirements and any retention requirements communicated by NEPDA. Such records may include, as applicable, correspondence, electronic communications, reports, photographs, deliverables, supporting documentation, invoices, accounting records, and other records documenting performance of the Agreement.

Upon request by NEPDA, the Contractor shall promptly provide NEPDA with records in the Contractor's possession, custody, or control that are reasonably identified by NEPDA as potentially responsive to a request under the PRA or otherwise required for NEPDA's records-management obligations. The Contractor shall provide such records in their existing electronic or physical format unless otherwise agreed.

Nothing in this section requires disclosure of a record that is exempt from disclosure or otherwise protected from disclosure by applicable law. NEPDA shall be responsible for determining whether records in its possession are subject to disclosure under the PRA and for responding to public records requests directed to NEPDA. The Contractor shall reasonably cooperate with NEPDA in identifying records for which the Contractor believes an exemption, confidentiality provision, or other legal protection may apply.

11. <u>Insurance</u>. Unless waived in writing by the Executive Director, for the duration of the Term, the Contractor shall maintain in force at its own expense, the following insurance:

A. Workers Compensation Insurance in compliance with Ch. 51 RCW.

B. Professional Liability Insurance with a combined single limit of not less than $1,000,000 each claim and in the aggregate, covering damages caused by errors, omissions, or negligent acts related to the professional services provided under this Agreement. Coverage shall remain in effect during the Term and for at least three (3) years after expiration or termination.

There shall be no cancellation, material change, reduction of limits, or intent not to renew the insurance coverage(s) without thirty (30) days written notice from the Contractor or its insurer(s) to NEPDA.

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As evidence of the insurance coverages required by this contract, the Contractor shall furnish acceptable insurance certificates to NEPDA at the time the Contractor returns the signed contract. The certificate shall specify all of the parties who are additional insured, and will include applicable policy endorsements, the thirty (30) day cancellation clause, and the deduction or retention level. Insuring companies or entities are subject to NEPDA acceptance. If requested, complete copies of insurance policies shall be provided to NEPDA. The Contractor shall be financially responsible for all pertinent deductibles, self-insured retentions, and/or self-insurance.

12. Indemnification and Hold Harmless. Each party shall indemnify and hold the other, its officers, employees, agents, and volunteers harmless from and against any and all claims, demands, orders, decrees or judgments for injuries, death, or damage to any person or property arising or resulting from any act or omission on the part of said party or its agents, employees, or volunteers in the performance of this Agreement.

13. Waiver. No officer, employee, agent or other individual acting on behalf of either party has the power, right, or authority to waive any of the conditions or provisions of this agreement, except as set forth in paragraph 10. No waiver in one instance shall be held to be waiver of any other subsequent breach or nonperformance. All remedies afforded in this agreement or by law, shall be taken and construed as cumulative, and in addition to every other remedy provided herein or by law. Failure of either party to enforce at any time any of the provisions of this agreement or to require at any time performance by the other party of any provision hereof shall in no way to be construed to be a waiver of such provisions nor shall it affect the validity of this agreement or any part thereof.

14. Assignment and Delegation. Neither party shall assign, transfer or delegate any or all of the responsibilities of this agreement or the benefits received hereunder without first obtaining the written consent of the other party.

15. Subcontracts. Except as otherwise provided herein, the Contractor shall not enter into subcontracts for any of the Work contemplated under this agreement without obtaining written approval of NEPDA.

16. Confidentiality and Data Security. Contractor shall maintain confidential information, including personally identifiable information, banking information, payroll information, and credentials, in accordance with applicable law and professional standards and shall use reasonable administrative, technical, and physical safeguards. Contractor shall promptly notify NEPDA of any known or reasonably suspected unauthorized access, disclosure, loss, or compromise of NEPDA information or credentials and shall reasonably cooperate with investigation, mitigation, and required notifications. Nothing in this section limits disclosure required by law, court order, audit, regulation, or the PRA.

17. Jurisdiction and Venue. This Contract is entered into in Spokane County, Washington. Venue shall be in Spokane County, State of Washington.

18. Disputes and Arbitration. All disputes arising under this Agreement which are not resolved by agreement of the Parties shall be resolved through arbitration pursuant to RCW Chapter 7.04A. Rules for arbitration shall be those prescribed by the American Association of Arbitration.

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If any arbitration or legal action is commenced pursuant to this Agreement or any document or instrument delivered pursuant hereto, the prevailing party shall be entitled to recover from the other party reasonable attorneys' fees, costs, and expenses incurred in connection with the prosecution or defense of such arbitration, action, or any appeal thereof. For purposes of this Agreement, the term "attorneys' fees" or "attorneys' fees and costs" shall mean the fees and expenses of counsel to the Parties hereto, which may include expert witness fees, printing, duplicating, and other expenses.

19. **Entire Agreement.** This written agreement constitutes the entire and complete agreement between the parties and supersedes any prior oral or written agreements. This Agreement may not be changed, modified, or altered except in writing signed by the parties hereto.

20. **Anti-kickback.** No officer or employee of NEPDA, having the power or duty to perform an official act or action related to this Agreement shall have or acquire any interest in this Agreement, or have solicited, accepted or granted a present or future gift, favor, service or other thing of value from any person with an interest in this Agreement.

21. Nondiscrimination. Contractor shall comply with all applicable federal, state, and local nondiscrimination laws and regulations, including the Washington Law Against Discrimination, chapter 49.60 RCW, as applicable to the Scope of Work. Contractor shall not unlawfully discriminate in employment or performance of this Agreement on the basis of any protected status.

22. **Cybersecurity and AI usage**: Contractor shall maintain commercially reasonable safeguards to protect passwords, credentials, and electronic information entrusted by NEPDA. Contractor remains solely responsible for the accuracy, originality, legality, and intellectual property compliance of all deliverables, regardless of whether artificial intelligence or automated content generation tools are used in producing the work. Contractor shall not submit confidential or protected NEPDA information into third-party AI systems without prior written authorization.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the dates set forth below.

NORTHEAST PUBLIC DEVELOPMENT AUTHORITY	TERESA D. JOHNSON CPA, INC.
	_____
By: _____	By:
Jesse Bank, Executive Director	Teresa D. Johnson, CPA, President

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NORTHEAST PDA

Exhibit A
Scope of Services

A. Engagement Objective and Preparation Services

Contractor will prepare, from information provided by NEPDA, the annual financial statements of NEPDA as of December 31, 2026, consisting of the cash-basis schedules required by the Washington State Auditor's Office (SAO), and monthly financial statements consisting of balance sheets as of August 31, 2026 through July 31, 2027 and related year-to-date profit and loss comparisons. The monthly financial statements may omit disclosures required by generally accepted accounting principles. Preparation of the August 31, 2026 statement is an opening-period deliverable notwithstanding execution of this Agreement after August 31, 2026.

Contractor will provide technical assistance to NEPDA during the Term as requested and within the authorized scope and not-to-exceed amount.

Financial Statement and Reporting Deliverables

- C-4 Fund Resources and Uses Arising from Cash Transactions
- C-5 Fiduciary Fund Resources and Uses Arising from Cash Transactions
- Notes to the Financial Statements
- Schedule 1 - Revenues/Expenditures/Expenses
- Schedule 9 - Schedule of Liabilities
- Schedule 15 - Expenditures of State Financial Assistance
- Schedule 16 - Schedule of Expenditures of Federal Awards
- Schedule 21 - Risk Management
- Correspondence, meetings, and work products related to the consulting services described below

B. Consulting and Controller Services

- Assist and support NEPDA in maintaining its accounting records consistent with State BARS and structured to track revenues and expenditures by project, funding source, and applicable restriction category.
- Should NEPDA convert to the accrual basis of accounting, assist NEPDA in maintaining compliance with applicable GASB standards.
- Assist NEPDA in developing and implementing sound internal control policies and procedures.
- Represent NEPDA throughout the annual audit, including entrance and exit interviews and responses to SAO inquiries in coordination with NEPDA staff. For initial transition periods, audit responsibilities may be coordinated jointly with NEPDA staff, with expanded Contractor representation in future audit cycles as appropriate.
- Coordinate, as requested, with Spokane County and City of Spokane staff on matters regarding NEPDA's interlocal agreement, grant funding, and related revenue remittances.
- Proactively advise the Director of Public Finance and Board on financial compliance matters relevant to special purpose governments, emerging issues, and best practices.

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• Support the establishment of accounting practices and internal controls that satisfy Uniform Guidance (2 CFR Part 200), including cost allowability, documentation standards, and reporting.

• Assist with Single Audit readiness, including preparation when required and coordination with external auditors.

• Provide technical accounting support and assist in resolving accounting system and software-related issues, including coordination with NEPDA's grant management software provider as necessary.

• Assist, as requested, in preparation of annual budgets, budget reports, and other required financial information.

• Serve as a financial and grant management resource, providing guidance and consultation on grant administration, compliance, and reporting matters.

• Assist NEPDA in preparing for the anticipated 2026 SAO audit covering January 1, 2023 through December 31, 2025, including review and revision, as necessary, of NEPDA's 2023, 2024, and 2025 annual filing information, Schedule 16, and other accounting classifications and schedules necessary to support the audit. Such assistance does not constitute acceptance of responsibility by Contractor for the original preparation, accuracy, completeness, or accounting treatment of transactions, records, or filings arising before Contractor's engagement.

C. Bookkeeping and Transactional Accounting Services

The following describes the anticipated categories of bookkeeping and transactional accounting services included within this engagement. Specific activities may vary based upon NEPDA's needs. Services materially outside these categories or requiring fees above the authorized not-to-exceed amount require prior written authorization.

Accounts Payable - As Needed

Obtain invoices from NEPDA; research vendor balances as necessary; input invoices into QuickBooks Online (QBO) batches; prepare checks and initiate ACH payments as authorized; and process annual use-tax filing/payment. NEPDA will review and approve payment activity and invoices requiring approval. Contractor may prepare or initiate payment transactions but shall not approve or release payments without required NEPDA authorization.

Credit Card Reconciliation - Monthly

Import and review credit-card transactions through QBO bank feeds; verify coding; match available receipts and supporting documentation; identify duplicate, missing, or uncategorized transactions; resolve discrepancies; and reconcile balances to statements. NEPDA will timely provide statements, receipts, and supporting documentation, respond to questions, and review outstanding reconciliation items.

Payroll - Biweekly, Quarterly, and Annually

Review employee payroll information maintained in QBO Payroll; review deductions, benefit withholdings, garnishments, and adjustments; process payroll; review payroll reports;

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monitor payroll-tax liabilities and filing deadlines; process DRS payments submitted by NEPDA in the DRS ERA system; and access SIMON as necessary for benefit administration. NEPDA will provide and approve employee hours, payroll changes, compensation, reimbursements, employee status changes, and tax filings; maintain supporting employee documentation; and ensure sufficient funds are available. Contractor shall not approve compensation changes or release payroll without required NEPDA authorization.

Accounts Receivable - As Needed

Receive and record revenue in QBO and provide a summary of monthly revenue. NEPDA will review revenue reports and provide supporting information as requested.

Technical Accounting Assistance - During Audit and As Needed

Assist with reconciliation of accounts monthly and in preparation for audit; prepare annual year-end entries; and provide journal entries, trial balance, and general ledger information for NEPDA review.

Bank Reconciliation - Monthly

Reconcile QBO cash activity to bank accounts; obtain statements; enter reconciliation entries as needed; and reconcile the warrant register with revenue/expense reports. Bank reconciliation does not include inspection of cancelled checks, substitute checks, or electronic images of checks unless separately requested. NEPDA will respond to questions and review/sign off on the reconciliation packet.

Budget - Annually or As Requested

Work with the Director of Public Finance to understand budget changes, assist with budget-related questions, and input/import the finalized NEPDA budget into QBO for monthly reporting. NEPDA retains responsibility for adopting and providing the final authorized budget.

D. Professional Standards, Responsibilities, and Limitations

• Contractor will conduct financial statement preparation services in accordance with the Statements on Standards for Accounting and Review Services (SSARSs) promulgated by the AICPA, including applicable ethical principles of integrity, objectivity, professional competence, and due care.

• Financial statement preparation differs significantly from a review or audit. The preparation engagement does not contemplate inquiry, analytical procedures, audit evidence, inspection, observation, confirmation, fraud-risk assessment, or other procedures ordinarily performed in a review or audit. Contractor will not express an opinion, conclusion, or other assurance on the prepared financial statements. Each prepared financial statement will state that no assurance is provided.

• Contractor is not required to verify the accuracy or completeness of information provided by NEPDA for the preparation engagement. If Contractor becomes aware that records, documents, explanations, or other information provided by NEPDA are incomplete,

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inaccurate, or otherwise unsatisfactory, Contractor will bring the matter to management's attention and request corrected or additional information.

• The limitations applicable to the financial statement preparation services do not limit the consulting and advisory services expressly described in this Exhibit, including internal-control and compliance advisory services.

• Contractor's responsibility under this engagement is limited to the period covered by its services and does not extend to matters arising during periods for which Contractor was not engaged, except to the extent that services relating to prior periods are expressly included within the scope of this Agreement. Contractor's assistance with prior-period records, financial reporting, audit preparation, or corrections does not make Contractor responsible for the original preparation, accuracy, or completeness of records, transactions, filings, or decisions occurring before its engagement.

• NEPDA management retains responsibility for selecting the financial reporting framework; designing, implementing, and maintaining internal controls; preventing and detecting fraud; complying with applicable laws and regulations; providing complete and accurate records and information; safeguarding records; making management decisions and judgments; and reviewing and accepting the results of Contractor's services.

• Independence is not required for financial statement preparation services under SSARSs. The performance of nonattest services may impair Contractor's independence unless applicable safeguards are met. Contractor will not perform an independent audit or review of NEPDA's financial statements under this Agreement.

E. Key Personnel and Coordination

Contractor will assign personnel consistent with the qualifications and staffing represented during the RFQ process and will maintain a qualified primary engagement contact. Contractor will promptly notify NEPDA of material changes in assigned key personnel and will coordinate replacement personnel with NEPDA when practicable.

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NORTHEAST PDA

Exhibit B
Compensation

1. Not-to-Exceed Compensation

Total compensation for all services and authorized expenses under this Agreement shall not exceed $91,067 without prior written authorization by NEPDA. Contractor will invoice monthly based on actual time worked at the rates below. The not-to-exceed amount is a ceiling and is not a guarantee that the full amount will be expended.

2. Hourly Billing Rates

- CPA: $274 per hour
- Accountant: $205 per hour
- Financial Analyst: $114 per hour

3. Additional Services and Expenses

Circumstances may arise that require additional time or materially change the scope, including untimely, inaccurate, incomplete, or unusable information; changes in NEPDA personnel or operations; mutually agreed scope changes; or other unanticipated matters. Contractor shall notify NEPDA before performing services that would cause the not-to-exceed amount to be exceeded. Any reimbursable out-of-pocket or travel expense must be approved in advance by NEPDA and will count toward the not-to-exceed amount unless otherwise authorized in writing.

4. Invoicing

Invoices shall be submitted monthly and shall provide sufficient detail to identify services performed, personnel category, hours, applicable rates, and authorized expenses. Payment is subject to Section 4 of the Agreement.

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NORTHEAST PUBLIC DEVELOPMENT AUTHORITY
RESOLUTION NO. 2026-010

A RESOLUTION of the Northeast Public Development Authority (the "NEPDA") to adopt an amendment to its existing Financial Management Policy to ensure compliance with existing law.

WHEREAS, the NEPDA was originally established by City of Spokane Ordinance No. C-34813 on December 12, 2011 and reformed by the Interlocal Agreement between the City of Spokane and Spokane County through City of Spokane OPR #2019-0928 and Spokane County Resolution #19-1390 to assist the City of Spokane and Spokane County to facilitate economic development of the Northeast area of the City and County;

WHEREAS, the NEPDA has a need, as a quasi-governmental entity, to review and amend its financial management policies from time to time to comply with existing law, and to govern its accounting and expenditure of public funds;

WHEREAS, the NEPDA will update its Financial Management Procedures from time to time at the discretion of the NEPDA Board of Directors, and to create policies to comply with existing or new law;

WHEREAS, the NEPDA Board finds it desirable for the efficient and effective governance of the NEPDA's affairs to adopt the amendment to its Financial Management Policy attached hereto and incorporated herein by reference as "**Exhibit A**;"

BE IT RESOLVED, that pursuant to the authority provided in the NEPDA's bylaws, the Board of Directors hereby adopts the updated Financial Management Policy attached as "**Exhibit A**."

BE IT FURTHER RESOLVED, that the officers and executive director of the NEPDA are hereby authorized and directed to take all action necessary and proper to effectuate the foregoing.

BE IT FURTHER RESOLVED, any actions of the Board of Directors or staff of the NEPDA prior to the date hereof and consistent with the terms of this resolution are ratified and confirmed.

ADOPTED by an affirmative majority vote of the Board of the Northeast Public Development Authority on the 9th day of October, 2026.

NORTHEAST PUBLIC DEVELOPMENT AUTHORITY

_____

BOARD CHAIR

CERTIFICATE

I, the undersigned, Secretary of the Northeast Public Development Authority Board of Directors, a municipal corporation organized under the laws of the State of Washington, do hereby certify that the foregoing resolution was duly approved and adopted by the Board of Directors of the corporation at a meeting of the Board of Directors duly called and held on the 9th day of October, 2026, at which meeting a quorum was present; and that said resolution, as set out above, will appear in the minutes of said meeting in the corporation's minute book.

DATED this _____ day of October, 2026.

_____
SECRETARY

EXHIBIT A

PO Box 7323, Spokane, WA 99207

NEPDA Financial Management Policy (Updated 2026)

Effective Date: 07/11/2025
Last Updated: 08/14/2026

I. Introduction

The Northeast Public Development Authority ("NEPDA") Board of Directors provides fiscal oversight to ensure sound stewardship of public funds. The NEPDA is municipal corporation formed in 2011 pursuant to Ordinance No. C34813, and in accordance with RCW 35.21.730 through RCW 35.21.757, Spokane Municipal Code § 4.25, and the Interlocal Agreement Between the City of Spokane and Spokane County effective January 1, 2020 (City of Spokane OPR #2019-0928; Spokane County Resolution #19-1390).

The mission of the NEPDA is to invest in community outreach, infrastructure, economic development partnerships and land development, creating business and job opportunities within the PDA boundaries, which consists of approximately 800 acres in northeast Spokane.

The NEPDA operates its financial reporting on a **Cash Basis** of accounting, as allowed by the Washington State Auditor's Office (**SAO**) for smaller local governments under RCW 43.09 and the **BARS Manual for Cash Basis Entities**. All policies, procedures, and reporting under this Policy shall comply with the **BARS Manual**, especially **Section 3.1.9.15 "Controls"**, which requires strong internal controls proportionate to the size and complexity of the entity.

The Northeast PDA prepares its financial statements on a cash basis in accordance with the Washington State Auditor's Office (SAO) requirements. Additionally, for federal grant management and reporting purposes, the NEPDA maintains accurate, current, and complete disclosure of the financial results of each Federal award or program in accordance with the reporting requirements in §§ 200.328 and 200.329. The PDA can adjust its records at the grant level to reflect accrual-based recognition of expenditures and

revenues, ensuring compliance with federal financial reporting and audit standards as allowed in §§ 200.302(b)(2).

This policy cross-references related policies in the **NEPDA Policy Matrix**, including but not limited to:

- **Credit Card Use Policy & User Agreement**
- **EFT Policy and Vendor Payments**
- **Expense Reimbursement SOP and Travel Policy**
- **Procurement Policy**
- **Equipment & Inventory Management Policy**
- **Records Retention Policy**
- **Donations, Fees, and Contributions**
- **Personnel Policies**

II. Responsibility and Roles

The Board of Directors, Officers, Executive Director, Financial staff, and Administrator each maintain responsibilities to ensure accurate Cash Basis recordkeeping, timely deposits, secure disbursements, and proper reconciliation.

Responsibility and Roles

a. **Board of Directors**: The Board of Directors ("Board") is responsible for communicating financial management expectations and goals to the staff.
b. **Officers**:

1. **Board of Directors, Chair**: The Board of Directors, Chair ("Chair") shall have general supervision of the affairs of the NEPDA as authorized in the NEPDA Bylaws and Charter. The Chair has signing authority for all NEPDA bank accounts, and may execute documents on behalf of the NEPDA as set forth herein. The Chair provides input to the Executive Director on the annual budget.

2. **Treasurer**: Shall have the custody of all monies and securities of the Corporation and shall keep regular books of account. The Treasurer shall oversee the disbursement of funds of the Corporation in payment of the just demands against the Corporation or as may be ordered by the Corporation

(taking proper vouchers for such disbursements) and shall render to the Corporation from time to time as maybe required, an account of all transactions undertaken as Treasurer and of the financial condition of the Corporation. As such, the Treasurer:

- Is an officer of the NEPDA;
- Reviews and approves the monthly financial portfolio after pre-approval by the Executive Director;
- Has signature authority on NEPDA bank accounts and may signs checks as provided herein;
- Provides input on the annual budget;
- Reviews any annual financial review or audit;
- Reviews the annual Form 990; and
- Carries out specific roles as it relates to the NEPDA

c. 1.**Executive Director**: The primary fiscal agent of the organization, formulating and directing all financial policies and procedures. The Executive Director is responsible for the monthly review of financial operations as provided herein to ensure that policies and procedures are properly implemented. The Executive Director develops and presents the annual budget, manages existing assets and invested funds, selects outside auditors and certified public accountants as directed by the Board, and approves revenue and expenditure objectives in accordance with the Board's approved long-term plans.

2. **Financial Staff**: Under the oversight of the Executive Director and in accordance to established job description, Financial Staff are responsible for supporting fiscal operations by billing for tax revenue, initiating payments in accordance with the Payment Procedures (including EFTs), and reviewing monthly financial statements and reconciliations for accuracy and compliance to Cash Basis requirements. Staff shall coordinate with the Administrator to ensure timely and accurate bookkeeping, reconciliations, and required financial filings. They shall also carry out any other financial management tasks formally delegated by the Executive Director, provided these duties comply with the BARS Manual Section 3.1.9.15 and maintain strong internal controls.

3.**Administrator**: Under the oversight of the Executive Director, the Accounting firm ("Administrator") is responsible for day-to-day bookkeeping, monthly financial reconciliation preparation for the Executive Director and Treasurer, maintenance of Chart of Accounts, accounts payable processing, input and processing payroll and payroll taxes, journal entries for general ledger, Forms 1099 and 1096 reporting, Form 990 reporting with the Administrator, bank

deposits and reconciliations, credit card reconciliations, processing expense reports, ordering and maintaining check stock.

All financial procedures shall maintain a clear audit trail consistent with the **SAO BARS Manual**, Cash Basis guidance, and any Uniform Guidance (2 CFR 200) when federal funds are used.

III. Revenue Procedures

- **EFT Receipts:** The Executive Director must approve all deposits, including electronic fund transfers (**EFTs**), following the NEPDA **EFT Policy**.
- Responsible party must make every effort to deposit Non-EFT receipts in a timely manner so as to avoid misplacement or expiration.
- All deposits must be recorded and reconciled to the bank account on a **Cash Basis**, with backup documentation filed according to the **Records Retention Policy**.
- The Executive Director must timely provide the record verifying payment receipt to the Administrator and/or financial staff if required.
- The Administrator must record each deposit transaction within the applicable software platform (i.e. Quickbooks) and file all deposit records chronologically in the "Deposits" section of the applicable monthly financial portfolio.
- The Executive Director and the Treasurer must review each respective month's deposits by comparing that month's bank statement with the applicable financial report(s), and the accompanying records prior to the last day of the following month.

IV. Expense Procedures

- All expenditures must comply with RCW 42.24, Uniform Guidance (if applicable), and internal policies.
- Disbursements shall be accounted for on a **Cash Basis**, recorded when paid, not when incurred.
- The use of **electronic payments** (EFTs) must comply with the **EFT Policy**, with dual controls, pre-approved vendor authorization, and documented approvals.
- Expenses must be matched to approved budgets and funding restrictions.

- All expenses incurred by the NEDPA must adhere to applicable law and, unless specifically authorized by the Executive Director, preclude the purchase of alcohol and entertainment in accordance with applicable law.
- The Executive Director shall receive and review all invoices received by the NEPDA.
- The Executive Director shall prepare all check payments.
- The Administrator shall file a copy of the invoice and check payment in the "expense" section of the applicable monthly financial portfolio.
- The Executive Director and the Treasurer must review all of the month's expenses by comparing that month's bank statement with the applicable QuickBooks report(s), and the accompanying financial records prior to the last day of the following month.

V. Special Notification Procedures

- **Expenses under $ 25,000.00:** The Executive Director may approve expenses for an amount less than$ 25,000.00, as outlined herein. No notification for such payment is required.
- **Expenses over $ 25,000.00 and under $ 50,000.00:** The Executive Director may execute a contract, lease, memorandum of understanding, agreement commitment, or check disconnected from a previously approved agreement for an amount equal to or exceeding $ 25,000.00 but less than $ 50,000.00. Written notification of this expense must be directed to the Chair and Treasurer.
- **Expenses over $ 50,000.00:** For any contract, lease, memorandum of understanding, agreement commitments, or checks disconnected from previously approved agreements in an amount equal to or exceeding $ 50,000.00, notification and review by the Chair and approval of a simple majority of the Board is required. Two signatures for approval of this expense are required, which may be executed by the Executive Director, Chair, and/or Treasurer.
- In the absence of the Executive Director, the Chair or Treasurer is permitted to execute the documents as described in this Section on the Executive Director's behalf.

VI. Expense Reimbursement Procedures

- Employees, contractors, and Board Members must follow the **Expense Reimbursement SOP**.

- All non-credit card reimbursements must comply with the Cash Basis reporting standard and be properly documented.
- Any Board Member, employee, or contract employee of the NEPDA, including the Executive Director, who incurs a legitimate and allowable expense while engaged in NEPDA business may be reimbursed. Board Members, employees, and contract employees are expected to perform their tasks in a cost-effective manner.
- Any Board Member, employee, or contract employee, must execute an expense report and provide documentation for the expense in the form of a receipt or other proof of payment. The expense report and accompanying documentation must be provided to the Executive Director in a timely manner.
- The Executive Director must review and approve all expense reports.
- Payment for any expense incurred by any Board Member, employee, or contract employee shall be made by the Executive Director and must follow the procedures outlined in Section II "Expenses".
- The Chair or Treasurer may request a summary or detailed report from the Administrator regarding reimbursement to any Board Member, employee, or contract employee at any time.
- The Executive Director's contracted, budgeted, or reoccurring expenses will be documented by the Administrator.
- The Treasurer will review the Executive Director's non-contractual expenses and reimbursements. Payment for any expense incurred by the Executive Director shall be made by the Treasurer, and is governed by the procedures outlined in Section II "Expenses".

VII. Credit Cards

- The Executive Director and Treasurer may approve credit cards for NEPDA employees, contract employees, and Board Members.
- The NEPDA's **Credit Card Use Policy** and **User Agreement** govern all card issuance, usage, and reconciliation in addition to any signed agreement with the financial institution.
- All credit card transactions must be documented, supported by receipts, and reconciled monthly on a **Cash Basis**, in line with **BARS Manual 3.8.5**.

- Lost or stolen cards must be immediately reported to the issuing bank, the Executive Director, and the Administrator.

VIII. Payroll

- Employees are paid every other week (**bi-weekly**) by direct deposit. Direct Deposit must be set up in advance through written instruction provided to the Administrator.
- Payroll costs must be recorded on a **Cash Basis**, recognizing expenses when disbursed.
- Payroll deductions, benefits, and leave accruals follow the NEPDA's **Salary and Pay Increase Policy**, **PTO Policy**, and RCW 49.46 with ultimate approval by the Board.
- Employee benefits are administered through the Association of Washington Cities (AWC).

IX. Vacation/Sick Leave

- Leave balances must be tracked accurately, but the liability is not reported under Cash Basis until paid.
- Any leave cash-out upon separation shall be expended when paid and comply with the **BARS Manual guidance for Cash Basis entities**.

X. Bank of Record

- The NEPDA's bank accounts are with Washington Trust Bank.
- All electronic payments and transfers shall comply with the **EFT Policy**, with adequate internal controls under **BARS 3.1.9.15**.

XI. Monthly Reconciliation

- The NEPDA's financial statements shall be prepared monthly on a **Cash Basis** in accordance to BARS 3.1.9.15 "Controls," as published by the State Auditor's Office.
- The Administrator must prepare a monthly financial statement in a format approved by the Executive Director and Treasurer. The Executive Director and Treasurer review

and approve the monthly financial reconciliation, as outlined herein. This reconciliation is presented to the Chair for review prior to the next regularly scheduled Board meeting.

- The monthly financial reconciliation is provided to the Board for approval at the next regularly scheduled Board meeting.

XII. Annual Budget

- The Executive Director shall prepare the annual budget in accordance with the Interlocal Agreement and the NEPDA's mission.
- Budget revenues and expenditures shall align with the Cash Basis framework and be reconciled quarterly to actual disbursements.
- The Executive Director is responsible for developing the annual budget, contributions from the Chair and Treasurer. Each year, the Executive Director must present a draft annual budget to the Board for approval. The budget shall include anticipated revenues and expenses by quarter, with explanatory notes as appropriate. The annual budget revenues and expenditures should reflect the Board's annual strategic objectives.
- ADD: Upon acceptance of any grant, donation, reimbursement agreement, or other external funding source that was not reasonably anticipated in the adopted annual budget, and which exceeds $25,000, the Executive Director shall present a budget amendment at the next regularly scheduled Board meeting. Until such amendment is adopted, expenditures may continue in accordance with the applicable grant agreement and adopted agency policy, provided sufficient funding has been awarded and accepted and expenditures remain within the scope of the external funding agreement.

XIII. Financial Review / Audit

- The NEPDA's books are reviewed annually by the Administrator for federal tax reporting and compliance with the **SAO BARS Manual**; including Form 990. The Form 990 is reviewed by the Treasurer and executed by the Chair.
- The Board may engage an external auditor as needed. Any financial statements must clearly state they are prepared on a Cash Basis.

- In the event of an audit, the Executive Director shall oversee the implementation of the audit and report the results to the Board.

XIV. Records Retention

All financial records, bank statements, reconciliations, credit card statements, and EFT documentation must be retained per the **Records Retention Policy**, consistent with **RCW 40.14** and the WA State Archives Local Government Common Records Retention Schedule.

✅ **KEY POLICY REFERENCES**

- **SAO BARS Manual** — Cash Basis, Section 3.1.9.15 Controls
- **Credit Card Use Policy & User Agreement**
- **EFT Policy**
- **Expense Reimbursement SOP**
- **Procurement Policy**
- **Records Retention Policy**

NORTHEAST PUBLIC DEVELOPMENT AUTHORITY
RESOLUTION NO. 2026-011

A RESOLUTION of the Northeast Public Development Authority (the "NEPDA") Board of Directors authorizing the Executive Director to execute a Design-Build Agreement with Bouten/Architects West (the "PDB Team") for the 3011 Wellesley project (the "Project"), and other matters relating thereto.

WHEREAS, the NEPDA was originally established by City of Spokane Ordinance No. C-34813 on December 12, 2011 and reformed by the Interlocal Agreement between the City of Spokane and Spokane County through City of Spokane OPR #2019-0928 and Spokane County Resolution #19-1390 to assist the City of Spokane and Spokane County to facilitate economic development of the Northeast area of the City and County; and

WHEREAS, on December 17, 2024, the NEPDA Executive Director executed a Validation and Services Agreement for Progressive Design-Build services for the Project that included scope and an estimated cost for Pre-Construction Services required to prepare a Validation Report; and

WHEREAS, the PDB Team delivered the Validation Package on October 10th, 2025, thereby completing the scope of work included in the Validation and Services Agreement; and

WHEREAS, on November 1st, 2025, the NEPDA suspended pre-construction work on the Project, and work was resumed on July 15, 2026; and

WHEREAS, to facilitate the resumption of pre-construction work, the PDB Team delivered an updated budget and schedule for Pre-Construction Services to the NEPDA on August 13th, 2026; and

WHEREAS, the NEPDA's Design-Build Counsel has prepared a Design-Build Agreement between the NEPDA and PDB Team memorializing the updated budget and schedule for Pre-Construction Services, and including all remaining services required to construct and deliver the Project; and

WHEREAS, the Design-Build Agreement will be amended to include the Guaranteed Maximum Price (GMP) to deliver the Project, once developed, and that construction will not commence until execution of said amendment; and

WHEREAS, the NEPDA Executive Director has reviewed the Agreement, attached hereto and incorporated herein by reference as **"Exhibit A,"** with the NEPDA's Owner's Representative and PDB Team and recommends the NEPDA Board authorize its execution; and

BE IT RESOLVED, the Board authorizes the Executive Director to execute the Design-Build Agreement, attached as **"Exhibit A,"** with PDB Team; and

BE IT FURTHER RESOLVED, that the Executive Director and officers of the NEPDA are hereby authorized and directed to take all action necessary and proper to effectuate the foregoing; and

BE IT FURTHER RESOLVED, any actions of the Executive Director, Board of Directors or staff of the NEPDA prior to the date hereof and consistent with the terms of this resolution are ratified and confirmed.

ADOPTED by an affirmative majority vote of the Board of the Northeast Public Development Authority on the 9th day of October, 2026.

NORTHEAST PUBLIC DEVELOPMENT AUTHORITY

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BOARD CHAIR

CERTIFICATE

I, the undersigned, Secretary of the Northeast Public Development Authority Board of Directors, a municipal corporation organized under the laws of the State of Washington, do hereby certify that the foregoing resolution was duly approved and adopted by the Board of Directors of the corporation at a meeting of the Board of Directors duly called and held on the 9th day of October, 2026, at which meeting a quorum was present; and that said resolution, as set out above, will appear in the minutes of said meeting in the corporation's minute book.

DATED this _____ day of _____, 2026.

_____
SECRETARY

EXHIBIT A

Agreement Between Owner and Design-Builder

This Agreement is made as of the 25th day of September in the year of Two Thousand and Twenty-Six by and between:

the "Owner":

Northeast Public Development Authority
5006 N Market Street
Spokane, Washington 99217

and the "Design-Builder":

Bouten Construction Company
P.O. Box 3507
627 N. Napa Street
Spokane, Washington 99202

for the following design-build project (the "Project"):

3011 Wellesley Mixed Use Development
3011 E. Wellesley Avenue
Spokane, Washington 99217

The Owner and Design-Builder agree as follows:

ARTICLE 1 THE DESIGN-BUILD DOCUMENTS

1.1 The "Design-Build Documents" form the Design-Build Contract or Contract. The Design-Build Documents consist of this Agreement between Owner and Design-Builder (the "Agreement") and any attached or referenced Exhibits; the General Conditions; any Supplementary Conditions; any Addenda issued by the Owner prior to execution of this Agreement; the Owner's Request for Qualifications and Request for Proposal; the Owner's program ("Program"); the Design-Builder's RFQ and RFP responses to the extent consistent with the Program ("Proposal"); any written modifications to the Proposal accepted by the Owner and Design-Builder, including the Design-Builder's "Validation Report Summary" (including any scope of work description, estimate, and updated conceptual drawings), upon approval by the Owner; other documents listed in this Agreement; Modifications issued after execution of this Agreement; and, upon execution by the Owner and the Design-Builder, the Guaranteed Maximum Price Amendment(s) ("GMP Amendment"). The Design-Build Documents shall not be construed to create a contractual relationship of any kind between any persons or entities other than the Owner and Design-Builder. An enumeration of the Design-Build Documents, other than Modifications, appears in Article 8.

1.2 The Design-Build Contract represents the entire and integrated agreement between the parties and supersedes prior negotiations, representations and agreements, whether written or oral.

1.3 The Design-Build Contract may be amended or modified only by a Modification. A Modification is (1) a written amendment to the Design-Build Contract signed by both parties, (2) a Change Order, (3) a Construction Change Directive or (4) a written order for a Minor Change in the Work issued by the Owner.

1.4 This Design-Build Contract is authorized by and entered into in accordance with the Design-Build requirements of RCW 39.10. The Design-Build Contract shall be interpreted to be consistent with the requirements of those statutory provisions.

ARTICLE 2 THE WORK OF THE DESIGN-BUILD CONTRACT

2.1 The Design-Builder shall fully execute the entire Work, including designing and constructing the Project, as described in the Design-Build Documents, except to the extent specifically indicated in the Design-Build Documents to be the responsibility of others. The Design-Builder is fully responsible to design and to build the Project as described in the Owner's Project Criteria and as these Project Criteria are further developed by the Owner and Design-Builder.

ARTICLE 3 DATE OF COMMENCEMENT AND SUBSTANTIAL COMPLETION

3.1 The date of commencement of the Work shall be the date established in a notice to proceed issued by the Owner. The Owner may issue separate notices to proceed for the Design-Builder's design and construction services and may order separate notices to proceed for different phases of construction.

3.2 The Contract Time shall be measured from the date of commencement to the date of Substantial Completion, subject to adjustments of the Contract Time as provided in the Design-Build Documents.

3.3 The Design-Builder shall achieve Substantial Completion of the Work by the date identified in the GMP Amendment, subject to adjustments of this Contract Time as provided in the Design-Build Documents and shall achieve Final Completion not later than thirty (30) days thereafter. The Design-Builder represents to the Owner that the Contract Time is adequate for full performance of the Work. The Design-Builder shall also achieve any interim milestones and phasing requirements set forth in the Design-Build Documents.

3.4 The Owner will assess, and the Design-Builder will be responsible for, liquidated damages as identified in the GMP Amendment.

The Design-Builder and Owner agree that these liquidated damages amounts are not penalties and are a reasonable estimation of actual damages to the Owner, as of this date of the GMP Amendment, based on the inherent uncertainty and difficulty in calculating and quantifying damages caused by delays in the construction of such facilities for a governmental entity.

ARTICLE 4 CONTRACT SUM AND GUARANTEED MAXIMUM PRICE

4.1 The Owner shall pay the Contract Sum to the Design-Builder for the Design-Builder's performance of the Design-Build Contract. The Contract Sum is the sum of the Cost of the Work and the Design-Builder's Fee, as long as such amount does not to exceed the Guaranteed Maximum Price ("GMP"). The Contract Sum does not include sales tax due on the Contract Sum, which shall be added to progress payments and paid by the Owner throughout design and construction.

4.1.1 Fee. The Design-Builder's Fee shall be fixed in the GMP at the percentage listed in its pricing proposal in response to the RFP (Four Point Two-Five Percent (4.25%)) times the pre-Fee GMP amount and shall also be calculated on any additive Change Orders and use of Contingency. The Fee covers all profit and home office overhead as well as all other costs not reimbursable under this Agreement, including but not limited to costs of administrative staff/office operations and support, principal participation, home office administrative support, yard operations, all taxes (other than sales tax) including B&O taxes, and financing costs. The Fee is also applied to the Preconstruction Services amounts, which amounts shall be itemized so that Fee is not applied twice.

4.1.2 Guaranteed Maximum Price. The sum of the Cost of the Work and the Design-Builder's Fee for the Project, for all design and construction services required by the Design-Build Documents, will be guaranteed by the Design-Builder not to exceed the Guaranteed Maximum Price identified in the GMP Amendment, subject to additions and deductions for Changes in the Work as provided in the Design-Build Documents. The GMP includes by way of example and not limitation all design and construction Costs of the Work; any general conditions expense; all taxes except State and local sales tax due on the Contract Sum; the Design-Builder's Contingency; any approved allowances; all insurance, including liability, E&O, and any contractually-required builder's risk insurance; overhead; and the Design-Builder's Fee. The only taxes excluded from the GMP and separately reimbursable by the Owner are State and local sales taxes to be paid based on the Contract Sum. Costs which would cause the GMP to be exceeded shall be paid by the Design-Builder without reimbursement by the Owner.

4.1.3 Savings. If the final Contract Sum (the sum of the final Cost of the Work plus the Design-Builder's Fee) is less than the GMP, the difference shall be considered "Savings," which shall all accrue to the Owner.

4.1.4 Contingency. The GMP shall include the Design-Builder's contingency, which shall be calculated as a percentage of the estimated Cost of the Work, and at a percentage amount that will be negotiated between the Design-Builder and the Owner as a part of the GMP negotiations. The percentage shall depend upon the level of completion of the Design-Build Documents and certainty of subcontractor pricing at that time, but shall not in any event exceed five percent of the estimated Cost of the Work. The contingency is a sum established for the Design-Builder's use to cover costs that are properly reimbursable as a Cost of the Work but not the basis for a Change Order, such as, for example, design errors and omissions, buy-out error, scope gaps, failure of a Subcontractor of any tier, or expediting costs for critical materials. The Design-Builder shall use the contingency only with the Owner's prior written consent.

4.1.5 Allowances. Allowances, if any, shall be identified in the GMP Amendment. Allowances are included in the GMP due to uncertainty in scope, price and/or quantity at the time the GMP Amendment is executed. Whenever actual costs are more or less than the allowance, the GMP will be adjusted appropriately up or down. The Design-Builder must provide the Owner with written notice of its intent to expend an allowance amount (providing the Owner with the opportunity to approve or reject the cost) before expending an allowance amount. Allowances may generally not be included in subcontracts, and any allowance must be approved by the Owner.

4.1.6 Assumptions. Assumptions or qualifications, if any, on which the GMP is based, shall be identified in the GMP Amendment.

4.1.7 Preconstruction Services. Payment to the Design-Builder for Preconstruction Services performed prior to the execution of the GMP Amendment shall be paid as follows:

$482,254.00 on an Hourly, Not to Exceed Basis per Exhibit C. This compensation does not include any payments made pursuant to the Initial Agreement executed between the Owner and the Design-Builder.

4.2 Changes in the Work

4.2.1 Adjustments to the GMP and/or Contract Sum on account of Changes in the Work may be determined by any of the methods listed in Article GC-7 of the General Conditions. The Design-Builder's Fee for Changes in the Work shall be calculated on the net increase in the Cost of the Work as a result of the change, using the same percentage identified above in Section 4.1.1.

ARTICLE 5 COST OF THE WORK

5.1 Costs to be Reimbursed

5.1.1 Definition. The term Cost of the Work shall mean the actual, net costs reasonably and necessarily incurred by the Design-Builder in the proper performance of the Work, without overhead, profit or fee, and at rates generally accepted and not higher than the standard rates paid at the place of the Project except with prior consent of the Owner. The Cost of the Work shall include only the items set forth in this Section 5.1. Whenever the Design-Build Documents state that the Design-Builder shall perform any Work or incur any expense, it shall be understood to mean, in the absence of language to the contrary, that the cost shall be a Cost of the Work payable by the Owner, not to exceed the GMP.

5.1.2 Construction and Management Labor Costs

5.1.2.1 Wages of construction workers, including working foremen, directly employed by the Design-Builder to perform the construction of the Work at the site or, with the Owner's approval, at off-site locations in the performance of the Work, at the prevailing rate of wage or under a salary or wage schedule agreed upon by the Owner and the Design-Builder. See WAC 296-127-011 regarding the effective date for prevailing wages.

5.1.2.2 Wages or salaries of the Design-Builder's supervisory and administrative personnel when stationed at the site for that portion of time directly involving the Project and required for the Work or, when pre-approved in writing by the Owner, when working offsite. The project superintendent, project manager, and estimator are included under this Section, regardless of whether they are or are not working from the field office, for that portion of their time spent working on the Project.

5.1.2.3 Costs paid or incurred by the Design-Builder for taxes, insurance, contributions, assessments and benefits related to such wages that are required by law or collective bargaining agreements and, for personnel not covered by such agreements, customary benefits such as sick leave, medical and health benefits, provided such costs are based on wages and salaries included in the Cost of the Work under Sections 5.1.2.1 through 5.1.2.2 and not otherwise included in the established wage rate. Costs paid or incurred by the Design-Builder for bonuses, stock options, or discretionary payments to employees are not reimbursable Costs of the Work.

5.1.2.4 The parties agree to negotiate and establish fully burdened wage rates when establishing the GMP, which shall be fixed and chargeable for the duration of the Project in lieu of actual rates, which may vary. Once established, the wage rates will not be subject to audit except to audit the hours incurred.

5.1.3 Subcontract Costs

5.1.3.1 Payments made by the Design-Builder to Subcontractors in accordance with the requirements of their subcontracts. The costs in any cost-plus subcontracts must conform to the requirements of this Article 5. The Design-Builder shall maintain a procedure for the review, processing and payment of Subcontractor payment applications for progress and final payments, all in accordance with the terms and conditions of the Design-Build Documents. The Design-Builder shall verify the completeness of all Subcontractor payment applications and assemble and check all supporting documentation required by the Design-Build Documents or by the subcontracts, including receipt of all lien waivers and releases.

5.1.4 Costs of Materials and Equipment Incorporated in the Completed Construction

5.1.4.1 Costs, including transportation and storage, of materials and equipment incorporated or to be incorporated in the completed construction.

5.1.4.2 Costs of materials described in Section 5.1.4.1 in excess of those actually installed to allow for reasonable waste and spoilage. Unused excess materials, if any, shall become the Owner's property at the completion of the Work or, at the Owner's option, sold or returned to the supplier by the Design-Builder. Any amounts realized from such sales or returns shall be credited to the Owner as a deduction from the Cost of the Work.

5.1.5 Costs of Other Materials and Equipment, Temporary Facilities and Related Items

5.1.5.1 Costs, including transportation, storage, installation, maintenance, dismantling and removal, actually paid for materials, supplies, temporary facilities, machinery, and equipment, that are provided by the Design-Builder at the site and used in the performance of the Work; and cost (less salvage value) of such items if not fully consumed, whether sold to others or retained by the Design-Builder. The basis for the cost of items previously used by the Design-Builder shall mean the fair market value of the items.

5.1.5.2 Rental charges (not to exceed the local fair market rental costs) actually paid for temporary facilities, machinery, equipment, and hand tools not customarily owned by construction workers that are provided by the Design-Builder at the site, whether rented from the Design-Builder or others, and the costs of transportation, installation, minor repairs and replacements, dismantling and removal.

Rates and quantities of equipment rented shall be an itemization of the actual length of time that construction equipment necessary and appropriate for the Work is used at the site times the applicable rental cost. The actual rental cost shall be established by the lower of the local prevailing rate stated in the Bouten Equipment Rent Policy, which is available for review and will be included as an exhibit to the GMP Amendment, or the actual rate paid to an unrelated third party as evidenced by rental receipts. If more than one rate is applicable, the lowest 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 providing all fuel, oil, lubrication, repairs, maintenance, and insurance. No gas surcharges shall be charged. 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. The total cost of rental allowed shall not exceed 75% of the cost of purchasing the equipment outright. 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 the Owner prior to performing the Work.

5.1.5.3 Costs of street cleaning, if any, and for removal and disposal of debris and rubbish from the site.

5.1.5.4 Cost of document reproductions, long-distance telephone calls, postage and parcel delivery charges, telephone service at the site and reasonable petty cash expenses of the site office.

5.1.5.5 Costs of materials and equipment suitably stored off the site at a mutually acceptable location, if approved in advance by the Owner and meeting the other requirements for payment of offsite materials and equipment.

5.1.6 Design and Other Consulting Services

5.1.6.1 Compensation, including fees and reimbursable expenses, paid by the Design-Builder for design and design-related consulting services required by the Design-Build Documents, both before and after execution of the GMP Amendment, including but not limited to services to program, produce design, architectural, and engineering documents, including Submittals, needed for permitting, final Owner acceptance, Subcontractor bidding purposes, for construction, and for as-built record drawings.

5.1.7 Miscellaneous Costs

5.1.7.1 That portion of insurance and bond premiums that are directly attributed to and required by this Design-Build Contract. The insurance shall be paid at One point Zero Percent (1.00%) of the Cost of the Work and the bonds shall be paid at Zero point Six-Six Percent (0.66%) of the Cost of the Work.

5.1.7.2 Use or similar taxes (but not income or B & O taxes which are included in the Fee), imposed by a governmental authority that are related to the Work. Sales tax due on the Contract Sum will be paid by the Owner with each progress payment.

5.1.7.3 Fees and assessments for permits, license fees, inspections that the Design-Builder is required by the Design-Build Documents to pay, but not for the cost of any permits paid for by the Owner, renewals, reinspection fees, or penalties. See Section GC-3.7.1.

5.1.7.4 Fees of laboratories for tests required of the Design-Builder by the Design-Build Documents and not paid for by the Owner, except those related to defective or non-conforming Work for which reimbursement is excluded by the Design-Build Documents.

5.1.7.5 Royalties and license fees paid for the use of a particular design, process or product explicitly required by the Design-Build Documents. The Cost of the Work shall not include, and the Design-Builder shall be responsible for, any costs of defending suits or claims for infringement of patent rights, or payments made resulting from such suits or claims, resulting from any design or other Work provided by the Design-Builder or its Engineer, consultants, or Subcontractors of any tier.

5.1.7.6 The cost of reasonable legal fees and expenses involved in handling any labor disputes, negotiations, liens or other matters between or among the Design-Builder, Engineer, consultants, Subcontractors of any tier and/or or labor unions and any other legal costs reasonably and properly incurred in the prosecution of the Work, provided the Owner is not a party to any dispute resolution proceeding and is being held harmless by the Design-Builder, the expenditures relate solely and specifically to this Project, and the legal services have not been incurred due to the negligence or failure of the Design-Builder to meet a contractual responsibility. All such costs shall be subject to the Owner's prior written approval, which shall not be unreasonably withheld.

5.1.7.7 The cost of warehousing pre-approved in writing by the Owner for stored materials or equipment subsequently incorporated into the Work.

5.1.7.8 Costs incurred by the Design-Builder in preparing and maintaining the Project schedule, scheduling plots, correspondence, and reports, so long as such costs are specific to this Project and were not incurred to submit or prove a Claim.

5.1.8 Other Costs and Emergencies

5.1.8.1 Other costs reasonably incurred in the performance of the Work if and to the extent approved in advance and in writing by the Owner.

5.1.8.2 Costs due to emergencies incurred in taking action to prevent threatened damage, injury or loss in case of an emergency affecting the safety of persons and property.

5.1.8.3 Cost of repairing or correcting, prior to Final Completion, damaged Work executed by the Design-Builder, Subcontractors or suppliers, provided that such damaged Work was not caused by the Design-Builder's negligence or failure to fulfill a specific responsibility of the Design-Build Contract, and only to the extent that the cost of repair or correction is not recoverable by the Design-Builder from

insurance, sureties, Subcontractors of any tier or suppliers. The Design-Builder shall take reasonable action to recover and, to the extent it has failed to recover, shall assign its rights to pursue and collect to the Owner upon request.

5.2 Costs Not to Be Reimbursed

The Cost of the Work shall not include the items listed below, as all such items are covered by the Design-Builder's Fee or are at the Design-Builder's risk:

5.2.1 Salaries and other compensation of the Design-Builder's personnel stationed at the Design-Builder's principal office or offices other than the site office, including all administrative and accounting personnel, except as specifically provided in the Fee and Sections 5.1.2 and 5.1.3.

5.2.2 Expenses of the Design-Builder's principal office and offices other than the site office.

5.2.3 Overhead and general expenses, except as may be expressly included in Section 5.1.

5.2.4 The Design-Builder's capital expenses, including interest on the Design-Builder's capital employed for the Work.

5.2.5 Rental costs of machinery and equipment, except as specifically provided in Section 5.1.5, or costs or losses resulting from lost, damaged or stolen machinery or equipment or negligent or improper use of machinery or equipment.

5.2.6 Costs due to the negligence or failure of the Design-Builder, Subcontractors and suppliers or anyone directly or indirectly employed by any of them, or for whose acts any of them may be liable, to fulfill a specific responsibility of the Design-Build Documents.

5.2.7 Any cost not specifically and expressly described in Section 5.1.

5.2.8 Costs, other than costs included in Change Orders approved by the Owner, that would cause the Guaranteed Maximum Price to be exceeded.

5.2.9 Penalties, extensions, fines, and reinspection fees imposed by governmental entities to the extent caused by the Design-Builder or a Subcontractor of any tier.

5.2.10 Safety costs expressed as a percentage or as any other calculated expression.

5.2.11 Legal, consultant, or claims-related expenses except as specifically provided in Section 5.1.

5.2.12 Accounting in the Design-Builder's main or home office.

5.2.13 Warehousing in Design-Builder's facility, except as approved under Section 5.1.

5.2.14 Daily commuting to the jobsite.

5.2.15 Business license(s).

5.2.16 Testing and inspection of rejected Work.

5.2.17 Data processing, software, hardware or computer-related costs.

5.2.18 Insurance costs except as specifically reimbursable under this Agreement.

5.3 Discounts, Rebates and Refunds

5.3.1 Trade discounts, rebates, refunds, and amounts received from sales of surplus materials and equipment shall accrue to the Owner, and the Design-Builder shall make provisions so that they can be obtained. If the Design-Builder is offered discounts and/or rebates based upon prompt payment, the Design-Builder shall offer the Owner the opportunity to take advantage of such discount and/or rebate, and if the Owner makes such a prompt payment then the Owner shall only be charged the price as reduced by the discount and/or rebate. If the Owner declines the opportunity the Design-Builder may keep any such discounts and/or rebates it achieves through its own prompt payment. If the Design-Builder does not provide the Owner the opportunity to participate then the Design-Builder may only charge the net costs after consideration of discounts and rebates. The Design-Builder shall notify the Owner in a timely manner of the availability of such cash discounts, rebates, or refunds.

5.4 Accounting Records

5.4.1 The Design-Builder shall keep full and detailed accounts and exercise such controls satisfactory to the Owner as may be necessary for proper financial management under this Agreement. The Owner and any consultants of the Owner shall be afforded prompt and full access to, and shall be permitted to promptly audit and copy, including electronicly copy, the Design-Builder's original records, ledgers, computerized records, books, correspondence, instructions, receipts, contracts, purchase orders, vouchers, memoranda and other data relating to the Project, the Design-Build Contract, or to any Claim, during normal business hours. The Design-Builder shall preserve records for a period of six (6) years after final payment, or for such longer period as may be required by law. The Owner shall have access to the Design-Builder's job cost accounting system for the Project and may make electronic copies therefrom. This Section 5.4 shall also apply to the Engineer and Subcontractors of any tier.

ARTICLE 6 PAYMENTS

6.1 Applications for Payment

6.1.1 Article GC-9.3 details the requirements for Applications for Payment. Based upon Applications for Payment that the Design-Builder submits to the Owner, the Owner shall make progress payments to the Design-Builder on account of the Contract Sum. The period covered by each Application for Payment shall be one (1) calendar month ending on the last day of the month.

6.1.2 The Design-Builder shall submit with each Application for Payment the current approved schedule of values in accordance with the Design-Build Documents, the Design-Builder's updated job cost report, and any payment records requested by the Owner (see Section GC-9.3). Applications for Payment shall indicate the percentage of completion of each portion of the Work as of the end of the period covered by the Application for Payment. In taking action on the Design-Builder's Applications for Payment, the Owner shall be entitled to rely on the accuracy and completeness of the information provided by the Design-Builder and shall not be deemed to have made a detailed examination, audit or arithmetic verification of the documentation submitted or other supporting data; to have made exhaustive or continuous on-site inspections; or to have made examinations to ascertain how or for what purposes the Design-Builder has used amounts previously paid on account of the Agreement.

6.2 Progress Payments

6.2.1 Prior to the GMP Amendment being executed, the Design-Builder will be reimbursed for preconstruction and design services per the Preconstruction Services fee established in Section 4.1.7.

After a GMP is established, and subject to other provisions of the Design-Build Documents, the amount of each progress payment shall be computed based upon estimated percent complete (while actual costs will be reconciled at the final payment) and as follows:

.1 Take that portion of the GMP properly allocable to completed Work as determined by multiplying the percentage of completion of each portion of the Work by the share of the GMP allocated to that portion in the schedule of values. Pending final determination of the cost to the Owner of Changes in the Work, amounts not in dispute may be included as provided in the General Conditions unless the Owner requires that actual cost records be provided;

.2 Add that portion of the GMP properly allocable to materials and equipment delivered and suitably stored at the site for subsequent incorporation in the completed construction (or, if approved in advance by the Owner, suitably stored and insured off site at a location agreed upon in writing);

.3 Add the Design-Builder's Fee. The Design-Builder's Fee shall be computed upon the Cost of the Work described in the two (2) preceding sections at the rate stated in this Agreement;

.4 Subtract the aggregate of previous payments made by the Owner;

.5 Subtract amounts, if any, for which the Owner has withheld payment; and

.6 Subtract the statutory retainage of five percent (5%) of the above amount as a fund for the protection and payment of the claims of any person or entity arising out of the Work and the State with respect to fees and taxes.

6.3 Final Accounting

6.3.1 At Final Completion, the Design-Builder shall deliver to the Owner a final accounting of the Cost of the Work.

6.3.2 The Design-Builder's final application for payment shall reconcile any discrepancies between the total monthly billings, progress payments, and the actual, final costs of the Work. The Owner will review and report in writing any and all specific issues and corresponding amounts disputed on the Design-Builder's final accounting within sixty (60) days after delivery, provided that the Owner is given prompt access to the Design-Builder's records. The Design-Builder shall promptly make available at its office all accounting documents related to the Project. Based upon such Cost of the Work as the Owner reports to be substantiated by the Design-Builder's final accounting, and provided the other conditions of the Design-Build Documents have been met, the Owner will notify the Design-Builder in writing of the Owner's intention to make final payment or to withhold payment. The Owner's final accounting shall not preclude or in any way limit the Owner from exercising its rights of audit under other provisions of the Design-Build Contract. The final accounting for any cost savings to the Owner shall occur only at the time of final payment and not during monthly progress payments.

6.3.3 If the Owner reports that the Cost of the Work as substantiated by the Design-Builder's final accounting is less than that claimed by the Design-Builder, the Design-Builder shall be entitled to invoke the dispute resolution procedure of this Agreement with respect to the disputed amount. If the Design-Builder fails to initiate the dispute resolution procedure within thirty (30) days of the Owner's delivery of the accounting to the Design-Builder, the substantiated amount reported by the Owner shall become final and binding. Pending a final resolution pursuant to the Design-Build Documents, the Owner shall pay the Design-Builder the undisputed amount, if any, determined by the Owner to be due the Design-Builder.

6.3.4 If, subsequent to final payment and at the Owner's request, the Design-Builder incurs costs in connection with the correction or completion of Work as described in Section 5.1 and not excluded by Section 5.2, the Owner shall reimburse the Design-Builder such costs and the Design-Builder's Fee

applicable thereto on the same basis as if such costs had been incurred prior to final payment, not to exceed the Guaranteed Maximum Price.

6.4 Final Payment

6.4.1 Final payment, constituting the entire unpaid balance of the Contract Sum, less retainage, shall be made by the Owner to the Design-Builder no later than thirty (30) days after the Design-Builder has fully performed the Design-Build Contract and Final Acceptance has occurred (except for the Design-Builder's responsibility to correct non-conforming Work discovered after final payment or to satisfy other requirements, if any, that extend beyond final payment), and the Design-Builder has submitted a final Application for Payment.

6.4.2 The Owner shall release retainage to the Design-Builder in accordance with Chapter 60.28 RCW and the Design-Build Documents.

ARTICLE 7 MISCELLANEOUS PROVISIONS

7.1 The Design-Builder's Engineer and other design professionals and consultants engaged by the Design-Builder shall be persons or entities duly licensed to practice their profession(s) in the jurisdiction where the Project is located. They are listed below:

Name	Responsibilities to Design-Builder
Architects West	Lead Design Consultant ("Engineer")
TBD	Mechanical Design Consultant
TBD	Electrical Design Consultant
TBD	Structural Design Consultant
TBD	Civil Design Consultant
Architects West	Landscape Design Consultant
Architects West	Interior Design

7.2 Consultants, if any, engaged directly by the Owner, as well as their professions and responsibilities, are listed below:

Name	Responsibilities to Owner
Turner & Townsend Heery	Design-Build Consultant
TBD	Commissioning Consultant
TBD	Special Inspection Agency

7.3 Separate contractors, if any, engaged directly by the Owner, as well as their trades and responsibilities, are listed below:

Name	Responsibilities to Owner
See Design-Build Documents for Owner-furnished and Design-Builder-furnished equipment and other requirements	

7.4 Designated Representatives

7.4.1 The Owner's Designated Representative, designated below, shall be authorized to act on the Owner's behalf with respect to the Project:

Jesse Bank, Executive Director
Northeast Public Development Authority
5006 N. Market Street
Spokane, Washington 99217
jesse.bank@northeastpda.com
(509) 795-0290 Telephone

7.4.2 The Design-Builder's Designated Representative, identified below, shall be authorized to act on the Design-Builder's behalf with respect to the Project:

Jake Closson, DBIA, Project Executive
Bouten Construction Company
P.O. Box 3507
627 N. Napa Street
Spokane, Washington 99202
jakec@boutenconstruction.com
(509) 535-3531

7.4.3 Neither the Owner's nor the Design-Builder's Designated Representatives shall be changed without ten (10) days' written notice being given to the other party. The Design-Builder shall not use personnel that are different from the intended personnel listed in its response to the Owner's RFQ or RFP (for any Phase of the Project) without the Owner's written approval.

7.5 Payments due and unpaid under the Design-Build Documents shall bear interest as specified by RCW 39.76, not to exceed the Bank of America prime plus two percent (2%) per annum.

ARTICLE 8 ENUMERATION OF THE DESIGN-BUILD DOCUMENTS

8.1 The Design-Build Documents, except for Modifications issued after execution of this Agreement, are enumerated as follows:

8.1.1 This executed Agreement and any attached Exhibits.

8.1.2 The General Conditions, the Special Conditions, and any Supplementary Conditions of the Contract.

8.1.3 The Owner's Request for Qualifications and Request for Proposal.

8.1.4 The Owner's Program.

8.1.5 The Design-Builder's Statement of Qualifications, dated August 27, 2024 and Fee Proposal dated October 8, 2024, to the extent consistent with the Program.

8.1.6 The written modifications to the Proposal that are accepted by the Owner and Design-Builder, including the Design-Builder's scope of work description, estimate, and updated conceptual drawings;

8.1.7 The Addenda, if any, are as follows:

Number	Date	Pages
1 (to RFQ)	August 8, 2024	6
1 (to RFP)	September 30, 2024	1
2 (to RFP)	October 7, 2024	1

8.1.8 Other documents, if any, forming part of the Design-Build Documents are as follows:

See Design-Build Documents.
Department of Labor and Industries Prevailing Wage Rates.
Upon execution by the Owner and the Design-Builder, the GMP Amendment.

8.1.9 In the event of a conflict or discrepancy among or in the Design-Build Documents, interpretation shall be governed in the following priority, with an Addendum or a revision to a Design-Build Document having precedence over the original document and later Addenda having precedence over earlier:

.1 Upon execution by the Owner and the Design-Builder, the GMP Amendment (if there is more than one GMP Amendment, later GMP Amendments shall control over earlier GMP Amendments);
.2 This executed Agreement and any attached Exhibits;
.3 Any Supplementary Conditions of the Contract;
.4 The General Conditions;
.5 The Owner's Program, as supplemented by the Design-Builder's Validation Report Summary;
.6 The Design-Builder's Proposal;
.7 The Owner's Request for Qualifications and Request for Proposal; and
.8 The Design-Builder's final, Owner-accepted design documents.

If there is any inconsistency within or among the Design-Builder's final, Owner-accepted design documents, the Design-Builder shall provide the better quality of, or the greater quantity of, any Work or materials, as reasonably interpreted by the Owner, at no change in the GMP or Contract Time.

ARTICLE 9 INSURANCE

9.1 The Design-Builder's Liability Insurance. The Design-Builder shall maintain an occurrence-based Commercial General Liability Insurance Policy as specified in the Design-Build Documents, with coverages not less than the following:

.1 $1,000,000 per occurrence for bodily injury liability including sickness, disease or death and $1,000,000 bodily injury liability for all occurrences (other than automobiles);
.2 $1,000,000 for property damage liability (other than automobiles) because of damage to or destruction of property of others including loss of the use thereof caused by one occurrence and $1,000,000 property damage liability for all occurrences;
.3 As an alternate to subsections .1 and .2 above, the Design-Builder may insure for $1,000,000 Combined Single Limit protection for both bodily injury and property damage liability per occurrence and $2,000,000 general aggregate stop loss;
.4 $1,000,000 per accident for bodily injury liability including sickness, disease or death and property damage liability because of damage to or destruction of property of others including loss of use thereof arising out of the operation of automobiles;
.5 $1,000,000 for claims for damages insured by personal injury liability coverage (included and defined in the Commercial General Liability insurance policy) which are sustained (1) by a person as a result of an offense directly or indirectly related to employment of such person by the Design-Builder or (2) by another person;
.6 $1,000,000 for claims involving damages to a person as a result of an offense directly or indirectly related to employment of such person by the Design-Builder or another employee;

.7 $1,000,000 for claims involving blanket contractual liability insurance (included and defined in the Commercial General Liability Insurance Policy) applicable to the Design-Builder's indemnity obligations under the Design-Build Contract, particularly Section GC-3.17; and

.8 In addition, the Design-Builder shall maintain an umbrella policy that provides excess limits following form over the primary layer, in an amount not less than $5,000,000.

9.2 Liability Insurance for Subcontractors. The Design-Builder shall ensure and require that Subcontractors of any tier have insurance coverage to cover bodily injury and property damage on all operations and all vehicles owned or operated by such Subcontractors of any tier in the amount of $1,000,000 per occurrence with a $2,000,000 aggregate limit. Subcontractors of any tier shall name at least the Design-Builder, the Owner, the Owner's consultants, and any others so identified in the Design-Build Documents as additional insureds on all applicable policies.

9.3 Professional Liability. The Design-Builder, the Design-Builder's Engineer, other design consultants, and any design-build Subcontractors of any tier will maintain for at least six (6) years after Substantial Completion Professional Liability/Errors and Omissions Liability insurance in an amount of not less than $2,000,000 per claim and annual aggregate (deductible of up to $50,000 permitted). The Design-Builder, the Design-Builder's Engineer, other design consultants, and any design-build Subcontractors of any tier will promptly notify the Owner of any material changes to, interruption of, or termination of this insurance, and will immediately procure replacement coverage. The Design-Builder, the Design-Builder's Engineer, other design consultants, and any design-build Subcontractor of any tier will either maintain active policy coverage, or an extended reporting period, providing coverage for claims first made and reported to the insurance company within six (6) years of Substantial Completion or termination of the Work under this Agreement, whichever occurs first.

9.4 Property Insurance. Unless the Owner elects in writing to procure builder's risk insurance directly or to waive the builder's risk requirement, the Design-Builder shall purchase and maintain property insurance written on a builder's risk, "all-risk" or equivalent policy form as specified in the Design-Build Documents.

9.5 Payment and Performance Bond. Upon execution of this Agreement, the Design-Builder shall secure and shall pay for bonds covering the faithful performance of the Design-Build Contract and payment of obligations arising under the Design-Build Documents, each in the full amount of the Preconstruction Services amount in Section 4.1.7, plus sales tax, pursuant to RCW 39.08, "Contractor's Bond." Upon execution of a GMP Amendment, the Design-Builder shall secure and shall pay for bonds covering the faithful performance of the Design-Build Contract and payment of obligations arising under the Design-Build Documents, each in the full amount of the GMP plus sales tax, pursuant to RCW 39.08, "Contractor's Bond."

9.6 Additional Insureds. The GMP includes an amount to pay the premium for the insurances required in the Design-Build Documents and to name the Owner, the Owner's consultants, their employees, any required governmental agencies and others identified in the Design-Build Documents as additional insureds on all applicable insurance policies. There shall be no self-insured retention without the prior written approval of the Owner.

ARTICLE 10 MISCELLANEOUS PROVISIONS

10.1 OMWBE Reporting. The Design-Builder shall submit plans for inclusion of underutilized firms as Subcontractors of any tier and suppliers including, but not limited to, the Office of Minority and Women's Business Enterprises certified businesses, veteran certified businesses, and small businesses, as allowed by law. The Design-Builder is required to track and report to the Owner and to the Office of Minority

and Women's Business Enterprises its utilization of the Office of Minority and Women's Business Enterprises certified businesses and veteran certified businesses.

This Agreement is entered into as of the day and year first written above. The individuals executing this Design-Build Contract represent and warrant that they are competent and capable of entering into a binding contract, and that they are authorized to execute this Design-Build Contract on behalf of the parties hereto.

Northeast Public Development Authority	**Bouten Construction Company**
OWNER (Signature)	**DESIGN-BUILDER** (Signature)
(Printed name and title)	(Printed name and title)

Exhibit A

Validation Report Summary

EXECUTIVE SUMMARY

This executive summary captures a high-level overview of the design-build scope specific to the 3011 Wellesley Mixed-Use project for the Northeast PDA.

Additional details on each component of this report can be found by clicking on their relative links.

The project is being developed and delivered using the progressive design-build method, which combines both design and construction into a single entity and allows for full collaboration between designer, owner, and contractor. Design-build provides the benefit of a streamlined approach, faster delivery, improved communications, reduction of risks, and potential cost savings.

This Summary represents the report provided at completion of the Validation period. The current direction for Design and Preconstruction scope as directed by the Owner includes the following revisions since submission of this report:

1. *Construction start planned for March 2027*
2. *Replace two 2nd floor housing units with NEPDA offices*
3. *Prevailing wage residential vs. commercial to be determined*
4. *Revised project estimate to be provided the end of August 2027*



Conditions of Excellence

A BUILDING THAT HONORS HILLYARD'S LEGACY WHILE SPEARHEADING ITS REBIRTH

Develop an eye-catching facility that suggests a new future for Hillyard

A PROJECT WORTHY OF EMULATION

Create a holistic community impact beyond financial performance

A PROJECT THE COMMUNITY WILL EMBRACE

Deliver a suite of needed amenities and a fully occupied building

AN EXEMPLARY PROGRESSIVE DESIGN-BUILD PROCESS

Do it right the first time—through open communication and attention to detail

Project Scope

ADDRESS AND PARCEL: 3011 East Wellesley Avenue, Spokane, WA, 99217; Parcel #36343.3007.

PARCEL SIZE: 0.48 acres.

ZONING: CC2 DC (Centers and Corridors Type 2—District Center), which allows commercial and residential uses. The proposed project is a mixed-use configuration with residential over ground-floor business/retail space (R2 over B/E).

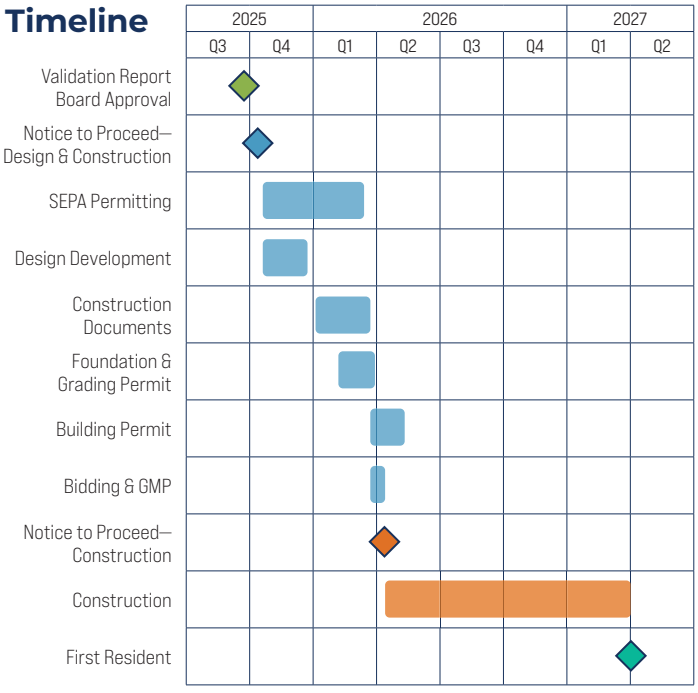
HEIGHT: Base maximum 75' (+15' bonus available). Proposed height is 48' 2".

FLOOR AREA RATIO (FAR): Minimum 0.5; no maximum. Proposed FAR is 1.35.

RESIDENTIAL UNITS: Thirty-five total (twenty-eight one-bedroom units at 536 SF each and seven two-bedroom units at approximately 717 SF each). Accessible units include two Type A one-bedroom units and one Type A two-bedroom unit.

GROUND FLOOR TENANT SHELL: 6,124 SF total, including a 508 SF event/flex space.

Timeline

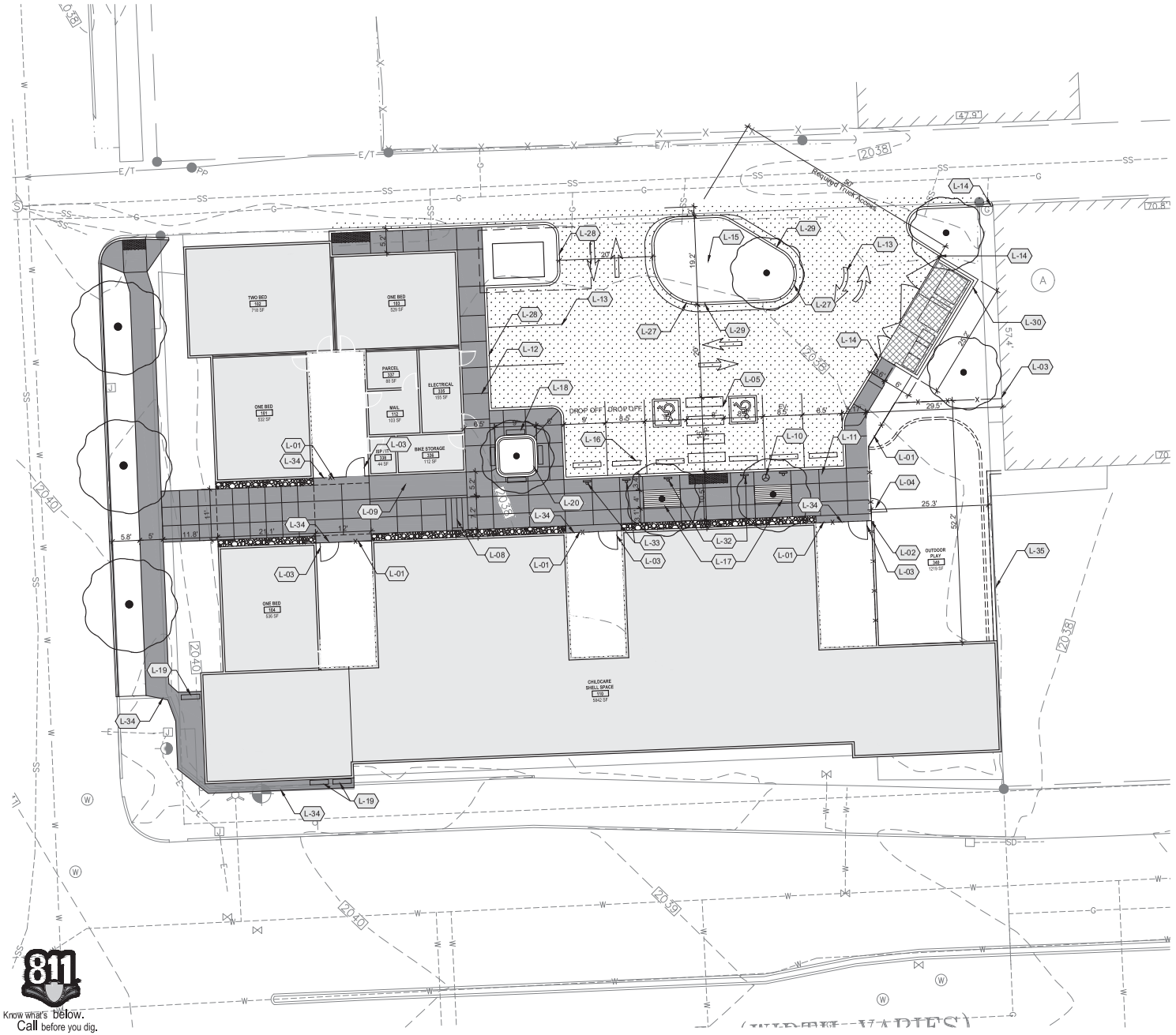


Budget

SCOPE	TOTAL
Sitework	$516,560
Building Structure	$1,743,460
Building Envelope	$1,124,850
Interior Finishes	$1,518,214
Equipment & Special Construction	$199,532
Mechanical	$1,303,725
Electrical	$1,000,500
Allowances	$109,435
General Conditions & Requirements	$877,614
Direct Price	**$8,393,892**
Design & Preconstruction Services	$895,126
Design, Estimating, & Construction Contingency	$1,032,340
Fee (Incl. B&O Tax)	$422,892
GL Ins. Builders Risk, & Bond	$225,612
Indirect Price	**$2,575,969**
Total Price	**$10,969,861**

Exhibit B

Draft Architectural Plans



LEGEND

- CONSTRUCTION LIMITS
- PROPERTY LINE
- VERTICAL CURBING PER DETAIL
- CURB & GUTTER PER DETAIL
- CONCRETE LANDSCAPE EDGING PER DETAIL
- 617.66 / 2523.29 — COORDINATE POINT (-TOP NUMBER NORTHING, -BOTTOM NUMBER EASTING)
- P.O.B. — POINT OF BEGINNING FOR COORDINATE ESTABLISHMENT
- 2ND POINT — SECOND POINT FOR COORDINATE ESTABLISHMENT
- ADA SIGN POST BASE PER DETAIL 5/L1.51
- SITE LIGHT POLE LOCATE PER THIS SHEET. SEE ELECTRICAL FOR ADDITIONAL INFO

GENERAL NOTES

1. ESTABLISH SITE LAYOUT GRID FROM POINT OF BEGINNING (P.O.B.) AT CORNER OF EXISTING BUILDING FOUNDATION WITH AN ASSUMED COORDINATE OF N:000.00', E:000.00' (VERIFY). ESTABLISH 2ND POINT AT THE INTERSECTION OF A ST. AND 3RD AVE. CENTERLINES AT 494.28', S 89D 23' 17" E FROM THE P.O.B. WITH AN ASSUMED COORDINATE OF N:000.00' E:000.00' (VERIFY).
2. REFER CLOSELY TO BUILDING LAYOUT DRAWINGS IN RELATION TO SITE LAYOUT ITEMS. CONTRACTOR TO VERIFY LISTED DIMENSIONS PRIOR TO CONSTRUCTION.
3. CONTRACTOR TO VERIFY LOCATION OF ALL UTILITIES PRIOR TO INITIATION OF ANY DEMOLITION OR CONSTRUCTION OPERATIONS. ANY DAMAGE TO EXISTING UTILITIES ON SITE OR ADJACENT PROPERTY SHALL BE CONTRACTOR'S RESPONSIBILITY.
4. COORDINATE INSTALLATION OF ELECTRICAL AND IRRIGATION CONDUIT AND SLEEVES WITH RESPECTIVE CONTRACTORS.
5. CONTRACTOR IS RESPONSIBLE FOR ALL CONSTRUCTION STAKING.
6. ALL DIMENSIONS ARE TO FACE OF CURB, EDGE OF WALK, EDGE OF PAVEMENT, EDGE OF FOUNDATION, EDGE OF WALLS OR CENTER OF POST.
7. CONTRACTOR RESPONSIBLE FOR ANY DAMAGE TO NEW OR EXISTING IMPROVEMENTS INCLUDING LANDSCAPE AREAS AS A RESULT OF CONSTRUCTION ACTIVITIES.
8. REFER TO PHASING PLAN FOR SITE WORK PHASING AND ALTERNATES, AND COORDINATION WITH WORK BY OTHERS.
9. THE LOCATION OF SITE FURNISHINGS SHALL BE APPROVED BY THE LANDSCAPE ARCHITECT.

LAYOUT KEYED NOTES

SYMBOL	DESCRIPTION	DETAIL
L-01	INSTALL 8' HIGH IRON FENCE AS SPECIFIED.	
L-02	EXTEND NEW FENCE TO WITHIN 4" OF BUILDING CORNER	
L-03	INSTALL 48" WIDE GATE WITH PANIC HARDWARE	/
L-04	INSTALL 36" WIDE GATE WITH PANIC HARDWARE	/
L-05	ADA ACCESSIBLE STALLS W/ SHARED AISLE & ASSOCIATED SIGNAGE PER DETAIL.	/
L-08	CONCRETE STAIR AND CHEEKWALL W/ HANDRAILINGS PER DETAIL	/
L-09	INSTALL RAMP AND RAILING PER DETAIL	
L-10	INSTALL ELECTRICAL VEHICLE CHARGING STATION. SEE ELECTRICAL	
L-11	INSTALL RECEPTACLE READY FOR EV CHARGING STATION. SEE ELECTRICAL	
L-12	INSTALL CONDUIT IN BOX TO ALLOW FOR EV CHARGING CAPABILITY, SEE ELECTRICAL	
L-13	INSTALL PARKING LOT STRIPING PER DETAIL(TYP)	/
L-14	INSTALL CURB END PER DETAIL	/
L-15	INSTALL SWALE BASIN PER DETAIL.	/
L-16	INSTALL WHEEL STOP PER DETAIL (TYP)	/
L-17	INSTALL TREE GRATE AS SPECIFIED AND PER DETAIL	
L-18	INSTALL (4) BENCHES AS SPECIFIED AND PER MANUFACTURERS WRITTEN INSTRUCTION (TYP)	
L-19	INSTALL LEANING BENCHES AS SPECIFIED AND PER MANUFACTURER'S WRITTEN INSTRUCTIONS (TYP)	
L-20	INSTALL LOW PLANTER FENCING AS SPECIFIED AND PER DETAIL	
L-27	INSTALL CURB INLET PER DETAIL	/
L-28	INSTALL STANDARD VERTICAL CURB PER DETAIL	/
L-29	INSTALL CURB AND GUTTER PER DETAIL	
L-30	INSTALL TRASH ENCLOSURE WALLS PER DETAIL	
L-32	INSTALL ADA SIGNAGE PER DETAIL	
L-33	INSTALL SIGNAGE THAT READS " DROP OFF PARKING ONLY. 10 MINUTE PARKING" PER DETAIL	
L-34	NEW CONCRETE TO MEET AND MATCH EXISTING CONCRETE PER DETAIL	
L-35	INSTALL 10' TALL CMU BLOCK WALL PER DETAIL. RETURN WALL TO WITHIN 4" OF ADJACENT BUILDINGS WALLS	
	INSTALL 4"-6" RIVER COBBLE INSET IN CONCRETE PER DETAIL	
	INSTALL ASPHALT PER DETAIL	
	INSTALL REINFORCED CONCRETE PER DETAIL	
	INSTALL CONCRETE FLATWORK PER DETAIL	

N 0 5 10 20

ONE INCH = TEN FEET

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- CIVIL ENGINEER: MORRISON & MAIERLE
- LANDSCAPE ARCHITECT: ARCHITECTS WEST
- STRUCTURAL ENGINEER: MORRISON & MAIERLE
- MECHANICAL ENGINEER: MORRISON & MAIERLE
- ELECTRICAL ENGINEER: MORRISON & MAIERLE

No.	Description	Date

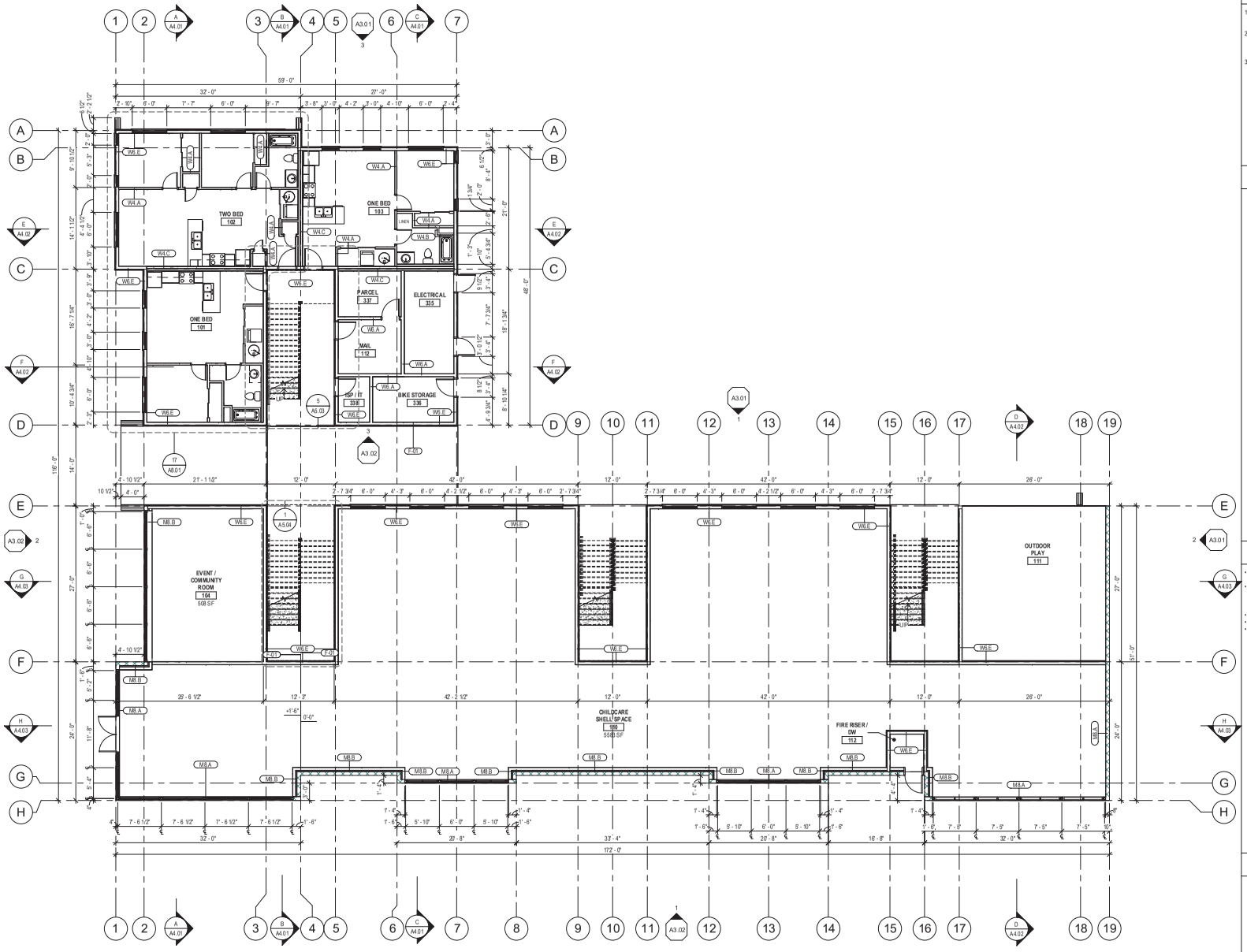
NORTHEAST PUBLIC DEVELOPMENT ASSOCIATION

CITY OF SPOKANE

xxx WELLESLEY, SPOKANE, WA 99XXX

LAYOUT PLAN

PROJECT NO.	24062
DESIGNED BY	NM
DRAWN BY	NM
ISSUE DATE	08/29/2025
PHASE	100% DD SET
CHECKED BY	BPD
REVISION	
SHEET NO.	L1.20



LEVEL 1 - FLOOR PLAN
SCALE: 1/8" = 1'-0"

GENERAL NOTES

1. SEE OTHER 'A' SERIES SHEETS FOR ADDITIONAL INFORMATION WHERE APPLICABLE.
2. SEE MECHANICAL, ELECTRICAL, STRUCTURAL, AND OTHER SYSTEMS DRAWINGS FOR INFORMATION NOT INDICATED ON THIS SHEET.
3. EXTEND FLOOR FINISHES INTO OPEN/KNEE SPACE BELOW BASE CABINETS AND EQUIPMENT.

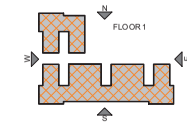
KEYED NOTES

WALL LEGEND

- SEE WALL TYPES & FLOOR PLANS FOR SIZES AND DIMENSIONS OF WALLS.
- ALL WALLS EXTEND TO UNDERSIDE OF ROOF JOIST/TRUSSES ABOVE UNLESS INDICATED OTHERWISE. WHERE ACOUSTIC INSULATION IS INDICATED IN THE WALL TYPE, IT SHALL EXTEND FULL HEIGHT OF WALL.
- SEE STRUCTURAL FOR TOP OF WALL CONNECTIONS.
- SEE A10 SERIES SHEETS FOR ASSEMBLY DESCRIPTION.
- WALL TYPES APPLY FOR TOTAL LENGTH OF WALL / ROOM, UNLESS NOTED OTHERWISE.

NEW WALL - FRAMING W/ MASONRY VENEER
NEW WALL - MASONRY
NEW WALL - CONCRETE
NEW WALL - FRAMED
INSULATION PER WALL TYPE
WALL TYPE - REFER TO A10.20
WALL TO DECK ABOVE
EXISTING WALL
MATCH LINE
1-HOUR FIRE BARRIER
2-HOUR FIRE WALL / HORIZONTAL EXIT
1-HOUR PROTECTED COLUMN
NON-RATED COLUMN

KEY PLAN



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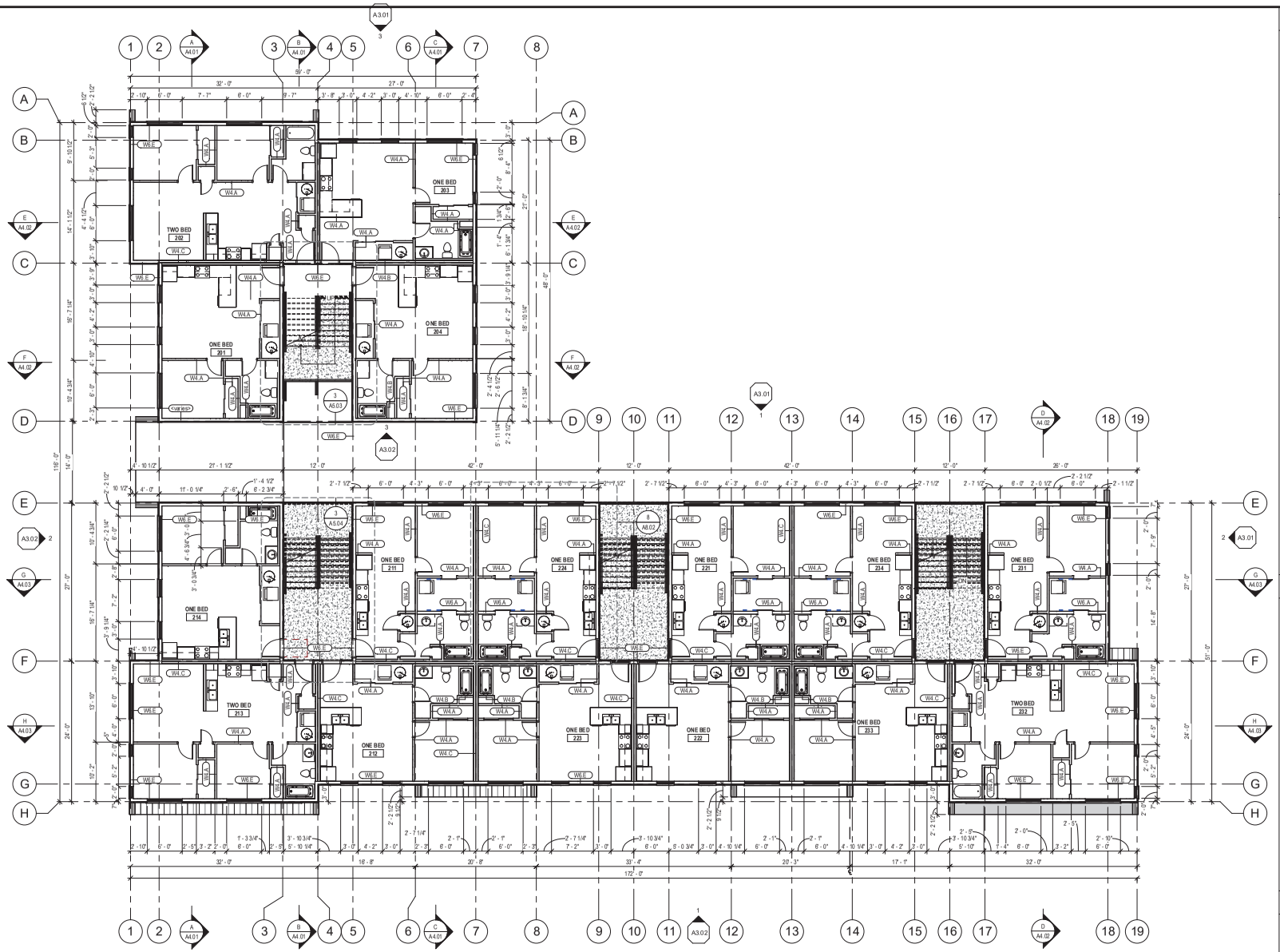
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No.	Description	Date

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3011 E WELLESLEY AVE

LEVEL 1 - FLOOR PLAN

PROJECT NO.	24062
DESIGNED BY	Designer
DRAWN BY	Author
ISSUE DATE	8-29-25
PHASE	VALIDATION
CHECKED BY	Checker
SHEET NO.	A2.01



LEVEL 2 - FLOOR PLAN
SCALE: 1/8" = 1'-0"

GENERAL NOTES

1. SEE OTHER 'A' SERIES SHEETS FOR ADDITIONAL INFORMATION WHERE APPLICABLE.
2. SEE MECHANICAL, ELECTRICAL, STRUCTURAL, AND OTHER SYSTEMS DRAWINGS FOR INFORMATION NOT INDICATED ON THIS SHEET.
3. EXTEND FLOOR FINISHES INTO OPEN/KNEE SPACE BELOW BASE CABINETS AND EQUIPMENT.

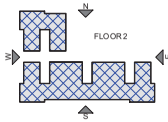
KEYED NOTES

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- SEE A10 SERIES SHEETS FOR ASSEMBLY DESCRIPTION.
- WALL TYPES APPLY FOR TOTAL LENGTH OF WALL / ROOM, UNLESS NOTED OTHERWISE.

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NEW WALL - MASONRY
NEW WALL - CONCRETE
NEW WALL - FRAMED
INSULATION PER WALL TYPE
WALL TYPE - REFER TO A10.20
WALL TO DECK ABOVE
EXISTING WALL
MATCH LINE
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NON-RATED COLUMN

KEY PLAN



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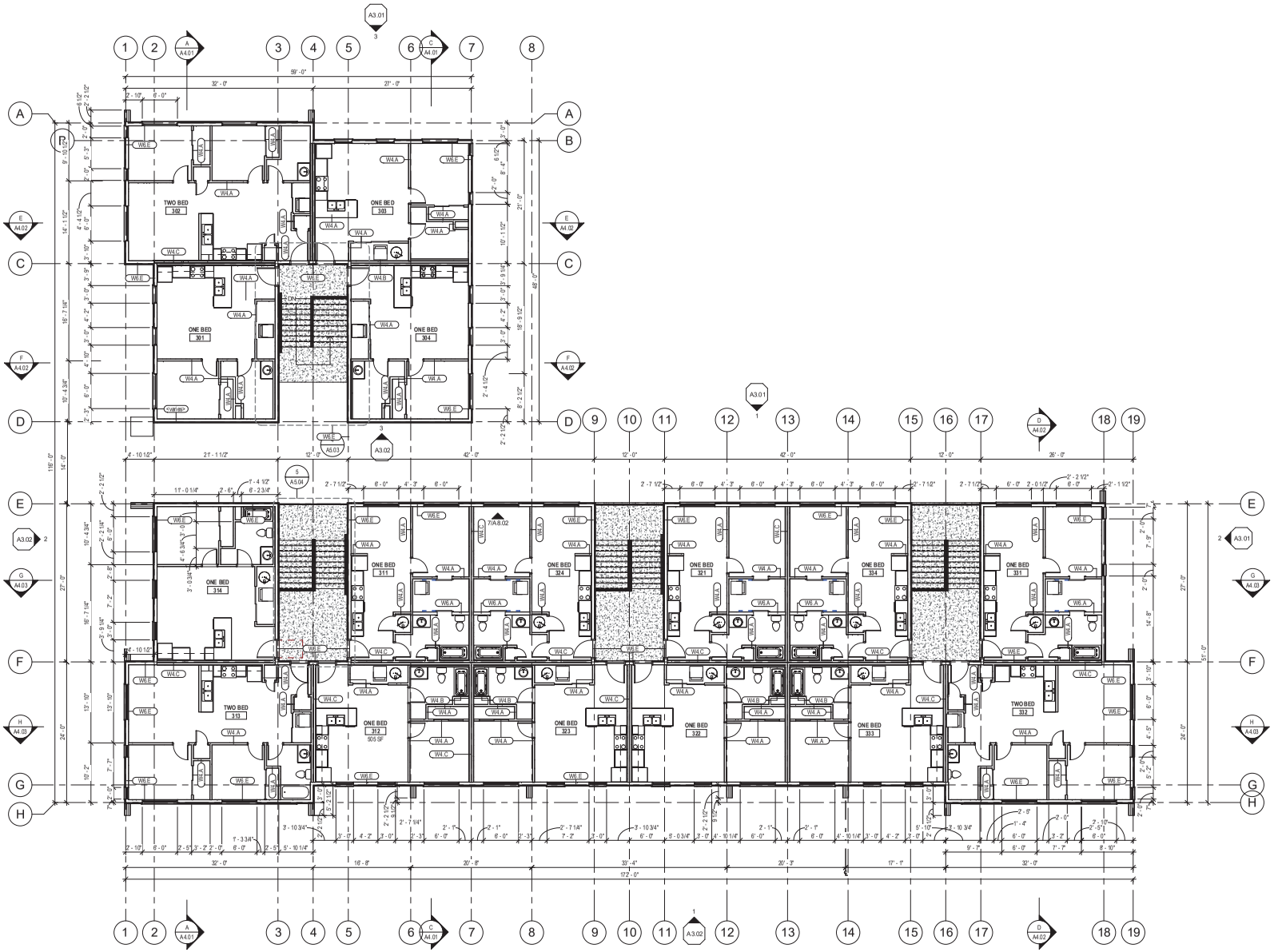
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LEVEL 2 - FLOOR PLAN

PROJECT NO.	24062
DESIGNED BY	Designer
DRAWN BY	Author
ISSUE DATE	8-29-25
PHASE	VALIDATION
CHECKED BY	Checker
SHEET NO.	A2.02



LEVEL 3 - FLOOR PLAN
SCALE: 1/8" = 1'-0"

GENERAL NOTES

1. SEE OTHER 'A' SERIES SHEETS FOR ADDITIONAL INFORMATION WHERE APPLICABLE.
2. SEE MECHANICAL, ELECTRICAL, STRUCTURAL, AND OTHER SYSTEMS DRAWINGS FOR INFORMATION NOT INDICATED ON THIS SHEET.
3. EXTEND FLOOR FINISHES INTO OPEN/KNEE SPACE BELOW BASE CABINETS AND EQUIPMENT.

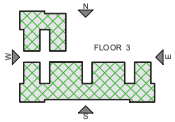
KEYED NOTES

WALL LEGEND

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- SEE A10 SERIES SHEETS FOR ASSEMBLY DESCRIPTION.
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NEW WALL - MASONRY
NEW WALL - CONCRETE
NEW WALL - FRAMED
INSULATION PER WALL TYPE
WALL TYPE - REFER TO A10.20
WALL TO DECK ABOVE
EXISTING WALL
MATCH LINE
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2-HOUR FIRE WALL / HORIZONTAL EXIT
1-HOUR PROTECTED COLUMN
NON-RATED COLUMN

KEY PLAN



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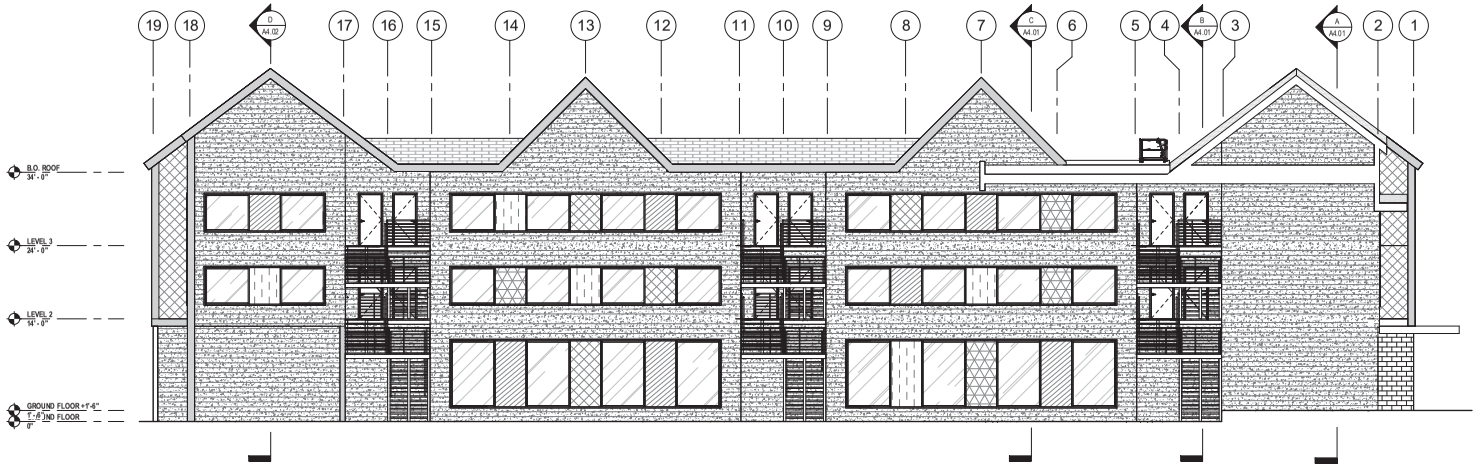
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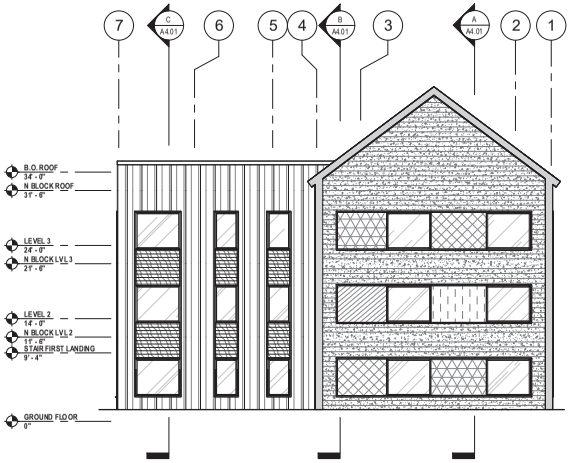
NEPDA
WELLESLEY MIXED USE
3011 E WELLESLEY AVE

LEVEL 3 - FLOOR PLAN

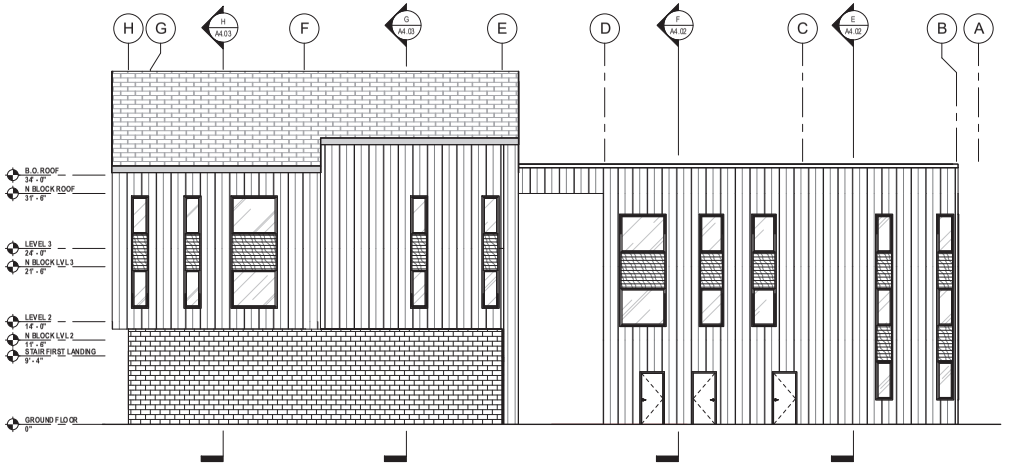
PROJECT NO.	24062
DESIGNED BY	Designer
DRAWN BY	Author
ISSUE DATE	8-29-25
PHASE	VALIDATION
CHECKED BY	Checker
SHEET NO.	A2.03



1 **NORTH ELEVATION**
SCALE: 1/8" = 1'-0"



3 **NORTH ELEVATION 1**
SCALE: 1/8" = 1'-0"



2 **EAST ELEVATION**
SCALE: 1/8" = 1'-0"

MATERIAL KEYING LEGEND

KEYNOTE NO.	KEYNOTE DESCRIPTION

GENERAL NOTES

1. SEE OTHER 'A' SERIES SHEETS FOR ADDITIONAL INFORMATION WHERE APPLICABLE.
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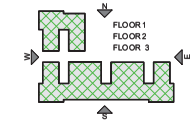
KEYED NOTES

MATERIAL LEGEND

- 042000 CMU BLOCK WALL
- ASPHALT SHINGLES
- BOARD AND BATT SIDING
- 074646 FIBER CEMENT LAP SIDING
- 088000 INSULATED GLAZING UNIT
- PAINTED FIBER CEMENT PANEL 1 (GRN)
- PAINTED FIBER CEMENT PANEL 2 (BL)
- PAINTED FIBER CEMENT PANEL 3 (DRK BL)
- PAINTED FIBER CEMENTPANEL 4 (OG)
- WOOD TONE CEMMENT FIBER LAP SIDING (WD)

NOTE: REFER TO ROOF PLAN FOR ROOFING SCOPE

KEY PLAN



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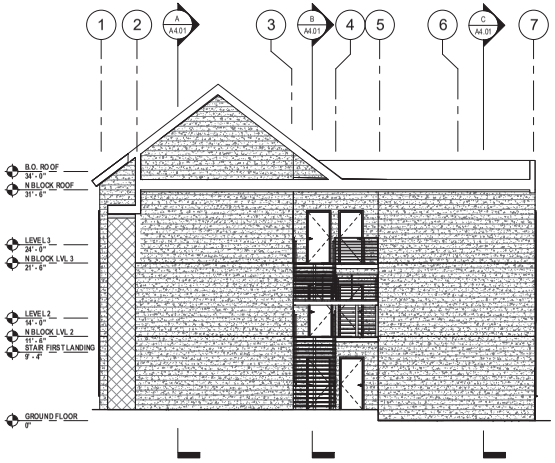
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EXTERIOR ELEVATIONS

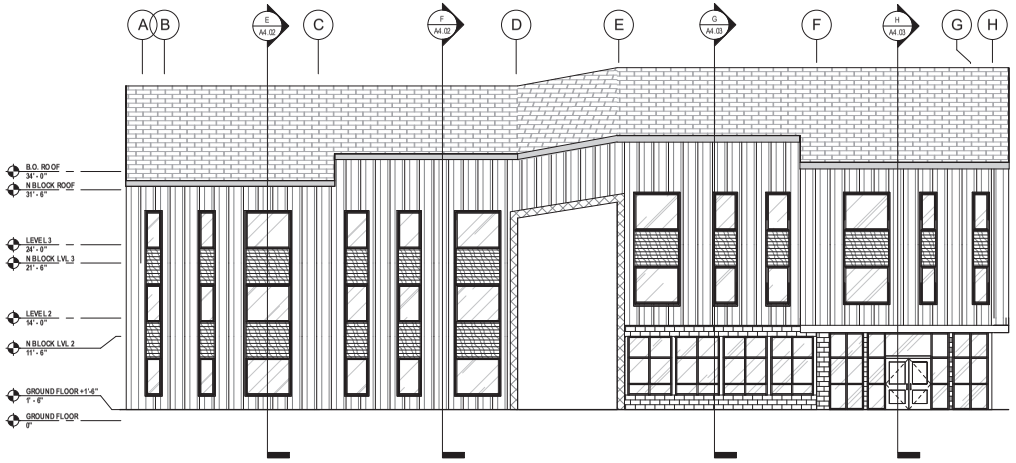
PROJECT NO.	24062
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DRAWN BY	Author
ISSUE DATE	8-29-25
PHASE	VALIDATION
CHECKED BY	Checker
SHEET NO.	A3.01



1 **SOUTH ELEVATION**
SCALE: 1/8" = 1'-0"



3 **SOUTH ELEVATION 1**
SCALE: 1/8" = 1'-0"



2 **WEST ELEVATION**
SCALE: 1/8" = 1'-0"

MATERIAL KEYING LEGEND

KEYNOTE NO.	KEYNOTE DESCRIPTION

GENERAL NOTES

1. SEE OTHER 'A' SERIES SHEETS FOR ADDITIONAL INFORMATION WHERE APPLICABLE.
2. SEE MECHANICAL, ELECTRICAL, STRUCTURAL, AND OTHER SYSTEMS DRAWINGS FOR INFORMATION NOT INDICATED ON THIS SHEET.

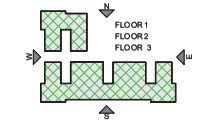
KEYED NOTES

MATERIAL LEGEND

- 042000 CMU BLOCK WALL
- ASPHALT SHINGLES
- BOARD AND BATT SIDING
- 074646 FIBER CEMENT LAP SIDING
- 088000 INSULATED GLAZING UNIT
- PAINTED FIBER CEMENT PANEL 1 (GRN)
- PAINTED FIBER CEMENT PANEL 2 (BL)
- PAINTED FIBER CEMENT PANEL 3 (DRK BL)
- PAINTED FIBER CEMENTPANEL 4 (OG)
- WOOD TONE CEMMENT FIBER LAP SIDING (WD)

NOTE: REFER TO ROOF PLAN FOR ROOFING SCOPE

KEY PLAN



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PRELIMINARY NOT FOR CONSTRUCTION

Architects West
210 E Lakeside Ave
Coeur d'Alene, ID 83814
t. 208.667.9402
architectswest.com

No.	Description	Date

NEPDA
WELLESLEY MIXED USE
3011 E WELLESLEY AVE
EXTERIOR ELEVATIONS

PROJECT NO.	24062
DESIGNED BY	Designer
DRAWN BY	Author
ISSUE DATE	8-29-25
PHASE	VALIDATION
CHECKED BY	Checker
SHEET NO.	A3.02

Exhibit C

Design and Preconstruction Level of Effort (September 18, 2026)

BOUTEN CONSTRUCTION COMPANY

Design and Preconstruction Level of Effort

Northeast Public Development Authority (NEPDA) | 3011 Wellesley Mixed Use
Spokane, WA
September 18, 2026

DESIGN AND PRECONSTRUCTION PLAN ACTIVITIES

ITEM #	ACTIVITY	2026 MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC	2027 JAN	FEB	MAR	NOTES
	Phase 1 - Design + Preconstruction												
1	Project re-start												
2	Revisit layous and office provisions												
3	Confirmation of PW budget ranges												
4	SEPA application and submittal												
5	**50% DD Drawings Complete**												
6	Finalize unit layouts												
7	Finalize exterior concept												
8	Updated detailed estimate												
9	Finalize daycare shell space												
10	Finalize site plan & utilities												
11	Finalize MEPF & structure design												
12	**100% DD Drawings Complete**												
13	City of Spokane design review												
14	100% DD estimate update												
15	Develop life safety/code sheets												
16	Exterior assemblies refinement												
17	Interior assemblies and acoustic design												
18	Plans, elevations, sections and enlarged plans development												
19	**30% CD Drawings Complete**												
20	MEPF & structure coordination and conflict detection												
21	Development of schedules and legends (D/F/HW, window, finish)												
22	Material/Finish sample review												
23	Further refinement of drawings												
24	**60% CD Drawings Complete**												
25	Exterior assembly details												
26	Interior assembly details												
27	Further refinement of drawings, specs, schedules and legends												
28	Final material/finish selections												
29	**90% CD Drawings Complete**												
30	Finalize all drawings, details and spec												
31	Prepare all documents for AHJ permit submittal												
32	Final QA/QC												
33	Early-Work/Procurement Support												
34	**100% CD Drawings Complete**												
35	Trade Partner Bidding												
36	Trade Partner Selection												
37	Procurement / Long Lead Items												
38	GMP Development and Establishment												

KEY PERSONNEL

ITEM	RESOURCE	2026 MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC	2027 JAN	FEB	MAR	HRS	$/HR	TOTAL	NOTES
	PRECONSTRUCTION EFFORT															
1	Project Executive - Jake Closson	4	4	4	4	4	4	4	4	4	in GMP	in GMP	**39**	$ 230	$ 8,901	
2	Design-Build Project Manager - Tanner Peterson	0	4	4	4	4	4	4	4	8	in GMP	in GMP	**36**	$ 136	4,896	
3	Project Engineer - TBD	0	0	0	0	0	9	17	34	34	in GMP	in GMP	**94**	$ 87	8,161	
4	Preconstruction Manager - Tyler Jones	9	9	9	17	9	17	34	43	17	in GMP	in GMP	**163**	$ 160	26,144	
5	Estimator support - Eric Scheller	0	0	0	26	9	9	17	34	9	in GMP	in GMP	**103**	$ 137	14,138	
6	Superintendent - Jim Putnam	0	0	0	8	8	8	8	8	8	in GMP	in GMP	**48**	$ 150	7,200	
7	Director of Safety - Weldon Barker	0	1	1	1	1	1	1	1	1	in GMP	in GMP	**8**	$ 122	976	
8	Quality Management Specialist - Cynthia Miller	0	0	0	0	0	0	4	4	4	in GMP	in GMP	**12**	$ 96	1,152	
9		0	0	0	0	0	0	0	0	0	in GMP	in GMP	**0**			
10	**Personnel Total Hours & Cost (Bouten Only)**	13	18	18	60	35	52	90	133	85	0	0	503		$ 71,568	
	DESIGN EFFORT - ARCHITECTS WEST															
11	Validation Phase (in previous Validation Level of effort)														$ -	
12	DD and CD Phase														386,421	
13	Bidding & Permitting														15,772	
14	Construction Administration														-	See Note No. 2
15																
16																
17																
18	**Architects West Total Hours and Cost - NTE**														402,193	
19	***All Design Consultants included with Architect's West														-	
20	Design & Preconstruction Contingency - (see D & E in overall estimate)														-	See Note No. 6
21	Credit 'Other' Consultants fee not used in Validation														(20,000)	See Note No. 7
22	**Subtotal Design and Consultants**														(20,000)	
23	**Subtotal Phase 1 Design and Preconstruction**														$ 453,761	

DIRECT COSTS / EXPENSES

ITEM #	ITEM NAME	TOTAL	NOTES
24	Printing, Mailing, Advertising, + Misc. Expenses	$ 500	
25	Travel and Fuel	250	
26	Technology and Software (VDC, JOIN)	500	
	Subtotal Direct Costs / Expenses	$ 1,250	

TOTAL DIRECT & PERSONNEL COSTS	$	**455,011**
Design-Builder Fee (4.25%)	$	19,338
Insurance (1.0%)		4,743
B & O Tax (Incl in Fee)		-
Design-Builder's Contingency (See separate line in the budget)		-
Payment & Performance Bond (.66%)		3,162
Retainage Bond (to be added at time of GMP)		- See Note No. 5
DESIGN & PRECONSTRUCTION TOTAL	$	**482,254** See Note No. 1
VALIDATION SERVICES AGREEMENT	$	**425,617** See Note No. 4
TOTAL VALIDATION, PRECONSTRUCTION & DESIGN	$	**907,871** See Note No. 8

NOTES

1. Includes final design and preconstruction services to completion of design and GMP development
2. Construction adminstration included with Architects West and carried in CoW as an allowance in the amount of $162,824.45.
3. Assumes a January 2027 GMP and March 2027 Construction start
4. The total Validation services value reflects the current contracted value.
5. Excludes retainage bond - no retainage held for design and preconstruction services
6. Pricing excludes contingency - design & estimating contingency carried within the overall budget
7. Credit $20,000 of 'Other Consultants not required during validation period.
8. Total value reflects current project scope and increased construction value due to inflation / escalation from previous estimates

Exhibit D

Design-Builder's Rate Sheet

Exhibit D – Hourly Rates

3011 Wellesley Mixed Use Development
Progressive Design-Build
Design and Preconstruction Contract

September 8, 2026

Design-Builder Hourly Billing Rates

Title	Pre-Construction and Construction Phase
	2026-2027 Hourly Rate
Project Executive – Jake Closson	$230
Sr. Preconstruction Manager – Ryan Brown	$180
Preconstruction Manager – Tyler Jones	$160
Estimator – Eric Scheller	$137
Design-Build Project Manager – Tanner Peterson	$136
Sr. Project Engineer – TBD	$95
Project Engineer - TBD	$87
Sr. Superintendent - Jim Putnam	$150
Superintendent - TBD	$141
Assistant Superintendent – TBD	$124
General Foreman	$95
Carpenter Foreman	$87
Labor Foreman	$82
Safety Director	$122
Safety Coordinator	$94
Quality Management Specialist	$96
Warehouse Superintendent	$109
Warehouse Labor	$75
Contracts Administrator	$85
Project Coordinator	$72
Design Principle – Steve Roth	$230
Project Architect – Joey Toews	$150
Interior Designer – Michelle Widner	$130
Landscape Architect – Bryce Olberding	$230

Note:

1. Multiple rates are provided for various positions since personnel assignments may vary from project-to-project.
2. The Contractor's rates shown above extend through May 31, 2027, and are subject to adjustment on June 1, 2027, based upon the Contractor's compensation policy to reflect industry market conditions or based upon union labor agreements where applicable. Any adjustment shall be applied to the Contractor's contingency or, if this is depleted, then a change order will be issued by the Owner to cover any remaining adjustment amount.
3. Rates listed apply to Article 5.1.2.4 per Agreement Between Owner and Design-Builder.

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General Conditions

ARTICLE GC-1 GENERAL PROVISIONS
GC-1.1 BASIC DEFINITIONS
GC-1.1.1 DESIGN-BUILDER'S ENGINEER
The "Design-Builder's Engineer" or "Engineer" is a person(s) or firm(s) lawfully licensed to practice architecture or engineering in the State of Washington who has a direct or sub-tier contract or employment relationship with the Design-Builder to perform design, architecture and/or engineering services for all or a portion of the Work. The Design-Builder's Engineer may be multiple persons or firms although the Engineer is referred throughout the Design-Build Documents as if singular in number. The "Design-Builder's Engineer" means the Design-Builder's Engineer or the Design-Builder's Engineer's authorized representative, and includes any architect or engineer contracted or employed by the Design-Builder to perform design Work for the Project.

GC-1.1.2 THE PROGRAM
The Owner's Program consists of preliminary engineering and architectural drawings and other information intended to convey the Owner's initial concepts for the Project, the expected programmatic, functional and operational elements of the Project, and the expected net and gross areas of the buildings. Conceptual drawings, specifications, and other information included with the Program are not for construction. The Program will be considered and used by the Design-Builder to prepare the final design for the Project and establish the GMP. The Design-Builder will be the designer of record for the Project and will take full responsibility for and produce final design documents that meet the Program requirements for permit submission, Owner acceptance, Subcontractor procurement, and construction.

GC-1.1.3 THE PROJECT
The "Project" is the total design and construction of which the Work performed under the Design-Build Documents may be a whole or part, and which may include design and construction by the Owner or by separate contractors. The Design-Builder is responsible to design and construct the entire Project except as specifically identified in the Design-Build Documents as the responsibility of others.

GC-1.1.4 SUBCONTRACTOR
A "Subcontractor" is a person or entity, other than the Design-Builder's Engineer, with a direct contract with the Design-Builder to perform a portion of the construction Work at the site or to supply materials or equipment. The term "Subcontractor" is referred to throughout the Design-Build Documents as if singular in number and means a Subcontractor or an authorized representative of the Subcontractor. The term "Subcontractor" does not include a separate contractor, as defined in Section GC-6.1.2, or subcontractors of a separate contractor. A "Subcontractor of any tier" is a Subcontractor or a lower tier Subcontractor with which a Subcontractor directly or indirectly contracts. The designation of terms in this Section is not meant to change or alter any statutory definitions of contractor, subcontractor, supplier, or the like for the purposes of lien claims.

GC-1.1.5 THE WORK
The term "Work" means the design, construction and services required by the Design-Build Documents, whether completed or partially completed, and includes all other labor, materials, equipment and services provided or to be provided by the Design-Builder to fulfill the Design-Builder's obligations. The Work may constitute the whole or a part of the Project.

GC-1.2 COMPLIANCE WITH APPLICABLE LAWS
GC-1.2.1 The Design-Builder shall review and comply with laws, codes, rules, and regulations in effect at the time the Work is performed that impose obligations on the performance of the Work. The Design-Builder shall respond in the design to requirements imposed by governmental authorities having jurisdiction over the Project. If the Design-Builder performs Work contrary to applicable laws, ordinances, codes, rules and regulations, the Design-Builder shall assume responsibility for such Work and shall bear the costs attributable to correction. The Design-Builder shall contractually require that the services of the Design-Builder's Engineer and consultants comply with these laws, codes, rules, regulations and governmental authorities. In the event of a conflict between laws, codes, and regulations of various governmental entities having jurisdiction over the

Project, the Design-Builder shall promptly notify the Owner of the nature and impact of the conflict. The Owner agrees to cooperate and work with the Design-Builder in an effort to resolve the conflict.

GC-1.2.2 Neither the Design-Builder nor any Subcontractor or Design-Builder's Engineer shall be obligated to perform any act that they believe will violate any applicable law, code, ordinance, rule or regulation.

GC-1.3 CAPITALIZATION
GC-1.3.1 Terms capitalized in these General Conditions include those that are specifically defined or the titles of numbered articles and identified references to sections in the document.

GC-1.4 INTERPRETATION
GC-1.4.1 In the interest of brevity, the Design-Build Documents frequently omit modifying words such as "all" and "any" and articles such as "the" and "an," but the fact that a modifier or an article is absent from one statement and appears in another is not intended to affect the interpretation of either statement.

GC-1.4.2 Words that have well-known technical or construction industry meanings are used in the Design-Build Documents in accordance with such recognized meanings unless otherwise stated or defined in the Design-Build Documents.

GC-1.4.3 Reference in the singular to an article, device, item or piece of equipment shall include the larger of the number of such articles indicated in the Design-Build Documents or the number required to complete the installation.

GC-1.5 EXECUTION OF THE DESIGN-BUILD CONTRACT
GC-1.5.1 By executing the Agreement and the GMP Amendment, the Design-Builder represents and acknowledges that the Design-Builder has visited the site, correlated personal observations with the requirements of the Design-Build Documents, and determined that the Work, including all design and construction required by the Design-Build Documents, can be accomplished for within the GMP. The Design-Builder further represents and acknowledges that it has satisfied itself as to the nature, location, character, quality and quantity of the Work, the labor, materials, equipment, goods, supplies, services and other items to be provided and all other requirements of the Design-Build Documents, as well as the surface conditions and other foreseeable matters that may be encountered at the Project site or affect performance of the Work or the cost or difficulty thereof, including but not limited to those conditions and matters affecting: transportation, access, local regulations, disposal, handling and storage of materials, equipment and other items; availability and quality of labor, water, electric power, utilities, drainage; availability and condition of roads; normal climatic conditions and seasons; physical conditions at the Project site and the surrounding locality; topography and ground surface conditions; and equipment and facilities needed preliminary to and at all times during the performance of the Work.

GC-1.6 OWNERSHIP AND USE OF DOCUMENTS AND ELECTRONIC DATA
GC-1.6.1 Design documents, materials, models, calculations, renderings, and other documents including those in electronic form, prepared by the Design-Builder's Engineer and/or prepared or provided by the Design-Builder are Instruments of Service. The Instruments of Service are the property of the Owner, and, unless otherwise provided, the Design-Builder, the Design-Builder's Engineer and other providers of professional services individually shall not retain any common law, statutory or other reserved rights in the Instruments of Services, including copyright, except for details, notes, standards, and design elements that were pre-existing this Agreement. Design documents, and other documents and materials and electronic data prepared for use with respect to this Project may be used by the Owner to complete this Project and on future projects. As a condition of Final Completion, the Design Builder shall deliver three hard copies and one CAD copy of updated as-built drawings to the Owner in the latest version of AutoCAD software. The Owner agrees to indemnify and hold the Design-Builder harmless from any subsequent modification of the Instruments of Service by the Owner and from the Owner's use of the Instruments of Service on other projects. Nothing herein shall cause or hinder the Design-Builder, Design-Builder's Engineer, or other designer's ability to use or reuse details, notes, standards, etc. on future projects.

GC-1.6.2 Upon the Owner's request, each of the Design-Builder's design professionals, including the Design-Builder's Engineer, shall be contractually required to convey to the Owner in whatever format the Owner may designate that design professional's Instruments of Service for the completion, use, updating, modernizing, and

maintenance of the Project, and any future project, conditioned upon the Owner's agreement to indemnify and hold harmless the design professional as set forth above. The Design-Builder shall incorporate the requirements of this Section GC-1.6 in all agreements with design professionals.

GC-1.6.3 Submission or distribution of the Design-Builder's Instruments of Service to meet official regulatory requirements or for similar purposes in connection with the Project is not to be construed as publication in derogation of any rights reserved in this Section.

ARTICLE GC-2 OWNER

GC-2.1 GENERAL

GC-2.1.1 The "Owner" is the entity identified as such in the Agreement. The "Owner" does not include employees, staff, custodians, maintenance or safety workers, or other Owner employees or consultants that may contact the Design-Builder or be present at the site. A WAIVER OF ANY PROVISION OF THE DESIGN-BUILD DOCUMENTS CAN ONLY BE MADE IN WRITING AND BY THE OWNER'S BOARD OF DIRECTORS OR THE OWNER'S DESIGNATED REPRESENTATIVE IDENTIFIED IN SECTION 7.4.1 OF THE AGREEMENT. No one else is authorized to grant such waivers on behalf of the Owner.

GC-2.1.2 The Owner, through the designated Owner's Representative and other consultants retained by the Owner, will provide administration of the Design-Build Contract as described in the Design-Build Documents and will be the Owner's on-site representative, but not the Owner's agent, during the design and construction of the Work. The Owner's Representative will have authority to act on behalf of the Owner only to the extent provided in the Design-Build Documents, unless otherwise modified in writing in accordance with other provisions of the Design-Build Contract. Only the Owner's Representative, and not other consultants or employees of the Owner, is authorized to agree on behalf of the Owner to changes in the GMP, Contract Sum or Contract Time, to direct the Design-Builder to take actions that change the GMP, Contract Sum or Contract Time, or to accept notice or Claims on behalf of the Owner.

GC-2.1.3 Except as otherwise provided in the Design-Build Documents, the Owner and Design-Builder shall endeavor to communicate with each other through the Owner's Designated Representative about matters arising out of or relating to the Design-Builder Contract. The Design-Builder will provide the Owner with a direct copy of all transmittals, notices, requests, Claims regarding potential changes in the GMP, Contract Sum or Contract Time. Communications by and with the Design-Builder's Engineer, Subcontractors and material suppliers shall be through the Design-Builder, except to discuss Claims, potential disputes, and as otherwise provided in the Design-Build Documents. Communications by and with separate contractors shall be through the Owner. Communications may be simultaneously copied to other recipients.

GC-2.2 INFORMATION AND SERVICES REQUIRED OF THE OWNER

GC-2.2.1 The Owner shall provide at its own expense information or services required of it by the Design-Build Documents, and shall render decisions, with reasonable promptness upon written request of the Design-Builder.

GC-2.2.2 The Owner will provide a survey to describe to physical characteristics, legal limitations and utility locations for the site of the Project, and a legal description of the site. The Design-Builder shall exercise proper precautions to validate the physical characteristics and utility locations identified by the survey to ensure the safe performance of the Work. The Design-Builder should assume that the locations of any underground or hidden utilities, underground tanks, or plumbing or electrical runs indicated in the survey or Design-Build Documents are shown in approximate locations. The Design-Builder is responsible for making all utility location checks.

GC-2.2.3 The Owner shall provide, upon the Design-Builder's written request and to the extent available to the Owner, the results and reports of prior tests, inspections or investigations conducted for the Project involving hazardous materials, subsurface conditions and information regarding the presence of pollutants at the Project site.

GC-2.2.4 The Owner may obtain independent review of the Design-Builder's design documents or other Work by separate architect(s), engineer(s), contractor(s) and/or cost estimator(s). This independent review shall be undertaken at the Owner's expense and shall not decrease the Design-Builder's ultimate responsibility for the design, construction, and cost.

GC-2.2.5 The Owner shall cooperate with the Design-Builder to help the Design-Builder secure permits, licenses and inspections required for completion of the Work. The Design-Builder is responsible to secure and pay, as a Cost of the Work within the GMP, for all licenses and inspections not explicitly designated as the Owner's responsibility in the Design-Build Documents. The Owner will pay all utility connection charges.

GC-2.2.6 If the Owner observes or otherwise becomes aware of a fault or defect in the Work or non-conformity with the Design-Build Documents, the Owner shall give prompt written notice thereof to the Design-Builder. The Owner's failure to so notify the Design-Builder shall not relieve the Design-Builder of its responsibilities under this Design-Build Contract.

GC-2.2.7 The Owner shall communicate with the Design-Builder through persons and entities employed or retained by the Design-Builder, unless otherwise agreed.

GC-2.2.8 Any investigations of hidden or subsurface conditions have been made only for purposes of developing the Owner's Program. The results of these investigations have been made available for the convenience of the Design-Builder but are not a part of the Design-Build Documents. There is no guarantee, express or implied, that the conditions indicated are representative of those existing throughout the site or that unforeseen developments may not occur. The Design-Builder is solely responsible for interpreting the information and extrapolating beyond the testing location, including each individual boring, test pit or other location. The Design-Builder shall undertake any further investigation that the Design-Builder believes necessary for design or construction.

GC-2.2.9 The Owner shall promptly obtain easements, zoning variances, and legal authorizations regarding site utilization where essential to the execution of the Work.

GC-2.3 OWNER REVIEW AND INSPECTION

GC-2.3.1 The Owner shall review and take action on the Design-Builder's Submittals, including but not limited to design documents prepared by the Design-Builder, but only for the limited purpose of checking for conformance with information provided and concepts expressed in the Program and other Design-Build Documents. The Owner's action shall be taken with reasonable promptness. Review of Submittals is not conducted for the purpose of determining the accuracy and completeness of details, such as dimensions and quantities, or for substantiating instructions for installation or performance of equipment or systems, all of which remain the responsibility of the Design-Builder. The Owner's review or acceptance shall not be deemed an approval of the Submittals or an agreement to modify the Design-Build Documents.

GC-2.3.2 Upon review of the design documents and Submittals required by the Design-Build Documents and in conformance with the level of review described above, the Owner shall take no objections, reject, or request additional information concerning the Submittals.

GC-2.3.3 The Design-Builder shall submit to the Owner for the Owner's review, any proposed change or deviation to previously accepted documents or Submittals. The Owner shall review and take action on proposed changes or deviations with reasonable promptness.

GC-2.3.4 Notwithstanding the Owner's responsibility above, the Owner's review of the Design-Builder's documents or Submittals shall not relieve the Design-Builder of responsibility for compliance with the Program and other Design-Build Documents unless (1) the Design-Builder has notified the Owner in writing of the deviation and has fully described the deviation prior to review by the Owner and (2) the Owner has approved a Change in the Work reflecting any deviations from the requirements of the Design-Build Documents.

GC-2.3.5 The Owner will visit the site to stay informed about the progress and quality of the Work completed but will not make exhaustive or continuous on-site inspections. The presence of the Owner at the site shall not be construed as assurance that the Work is being completed in compliance with the Design-Build Documents, nor as evidence that any requirement of the Design-Build Documents of any kind, including notice, has been met or waived. The Owner shall neither have control over or charge of, nor be responsible for, the construction means, methods, techniques, sequences or procedures, or for the safety precautions and programs in connection with the Work.

GC-2.3.6 The Owner shall not be responsible for the Design-Builder's failure to perform the Work in accordance with the requirements of the Design-Build Documents or applicable laws. The Owner shall not have control over or charge of and will not be responsible for the acts or omissions of the Design-Builder, Design-Builder's Engineer, Subcontractors of any tier, or their agents or employees, or any other persons or entities performing portions of the Work for the Design-Builder.

GC-2.3.7 The Owner may reject Work that does not conform to the Design-Build Documents. Whenever the Owner considers it necessary or advisable, the Owner shall have authority to require inspection or testing of the Work or to perform such inspections or testing on its own, whether or not such Work is fabricated, installed or completed. However, neither this authority of the Owner nor a decision made in good faith either to exercise or not to exercise such authority shall give rise to a duty or responsibility of the Owner to the Design-Builder, the Design-Builder's Engineer, Subcontractors, material and equipment suppliers, their agents or employees, or other persons or entities performing portions of the Work.

GC-2.3.8 The Owner may appoint on-site Project representatives to observe the Work and to have such other responsibilities as the Owner specifies.

GC-2.4 OWNER'S RIGHT TO STOP WORK

GC-2.4.1 If the Design-Builder fails to correct Work that is not in accordance with the requirements of the Design-Build Documents or persistently or materially fails to carry out Work in accordance with the Design-Build Documents, the Owner may, without change to the GMP or the Contract Time, issue a written order to the Design-Builder signed personally or by an agent specifically so empowered by the Owner directing the Design-Builder to stop the Work, or any portion thereof, until the cause for such order has been eliminated; however, the right of the Owner to stop the Work shall not give rise to a duty on the part of the Owner to exercise this right for the benefit of the Design-Builder or any other person or entity.

GC-2.5 OWNER'S RIGHT TO CARRY OUT THE WORK

GC-2.5.1 If the Design-Builder defaults or neglects to carry out the Work in accordance with the Design-Build Documents and fails within a seven (7) day period after receipt of written notice from the Owner to commence and continue to make reasonable progress toward the correction of such default or neglect with diligence and promptness, the Owner may, without prejudice to other remedies the Owner may have, correct such deficiencies. In such case an appropriate Change Order shall be issued deducting from payments then or thereafter due the Design-Builder the reasonable cost of correcting such deficiencies, including Owner's expenses and compensation for the additional services and expenses of any Owner consultants made necessary by such default, neglect or failure. The right of the Owner to correct the Work shall not give rise to any duty on the part of the Owner to exercise this right for the benefit of itself or others. If payments then or thereafter due the Design-Builder are not sufficient to cover such amounts, the Design-Builder shall pay the difference to the Owner.

ARTICLE GC-3 DESIGN-BUILDER

GC-3.1 GENERAL

GC-3.1.1 The Design-Builder is the person or entity identified as such in the Agreement and is referred to throughout the Design-Build Documents as if singular in number. The Design-Builder must legally be permitted to do business as a design-builder and be licensed, bonded, and insured as a contractor in the State of Washington. The term "Design-Builder" means the Design-Builder or the Design-Builder's authorized representative, including its Designated Representative, who shall be authorized to act on the Design-Builder's behalf with respect to the Project.

GC-3.1.2 The Design-Builder shall perform the Work in strict accordance with the Design-Build Documents.

GC-3.1.3 The Design-Builder shall be and operate as an independent contractor in the performance of the Work and shall have complete control over and responsibility for all personnel performing the Work. In no event shall the Design-Builder be authorized to enter into any agreements or undertakings for or on behalf of the Owner or to act as or be an agent or employee of the Owner. The Design-Builder will cooperate with the Owner to create an environment of mutual respect and focus on the success of the Project.

GC-3.1.4 As required by RCW 39.10.320(1)(e), the Design-Builder, Subcontractors of any tier, and the Engineer shall submit project information required by the Capital Projects Advisory Review Board.

GC-3.2 DESIGN SERVICES AND RESPONSIBILITIES

GC-3.2.1 The Design-Builder shall provide design services using qualified persons or entities duly licensed to practice their professions in the State of Washington, including the Design-Builder's Engineer. The services performed by the Design-Builder's design professionals and consultants are undertaken and performed in the sole interest of and for the exclusive benefit of the Design-Builder and the Owner.

GC-3.2.2 The agreements between the Design-Builder and Design-Builder's Engineer, other design professionals retained by Design-Builder, and Subcontractors shall be in writing. These agreements, including services and financial arrangements with respect to this Project, shall be promptly and fully disclosed to the Owner upon the Owner's written request.

GC-3.2.3 The Design-Builder shall be responsible to the Owner for acts, errors and omissions of the Design-Builder's employees, Design-Builder's Engineer, Subcontractors of any tier, and other persons or entities, including design professionals, as well as their agents and employees, performing any portion of the Design-Builder's obligations under the Design-Build Documents.

GC-3.2.4 The Design-Builder shall carefully study and compare the Design-Build Documents and the information provided by the Owner pursuant to the Design-Build Documents, shall take field measurements of existing conditions, including all general reference points related to the Work, shall observe any conditions at the site affecting the Work, shall carefully compare such field measurements and conditions and other information known to the Design-Builder with the Design-Build Documents before commencing such activities, and shall report promptly to the Owner any errors, inconsistencies or omissions discovered. The Design-Builder is responsible for ensuring that the Design-Build Documents are in accordance with applicable laws, statutes, ordinances, building codes (including those adopted and modified by local authorities having jurisdiction), rules and regulations, and lawful orders of public authorities, including, but not limited to, the latest applicable versions of:

- **.1** Building Code with State of Washington Amendments;
- **.2** Plumbing Code with State of Washington Amendments;
- **.3** Mechanical Code;
- **.4** Electrical Code;
- **.5** Washington State Energy Code;
- **.6** Washington State Rules and Regulations for Barrier-Free Design;
- **.7** Fire Code;
- **.8** National Fire Protection Association Requirements;
- **.9** Federal and State Codes (including those related to disability accommodation) as adapted and/or modified by State and Local Ordinances; and
- **.10** Any applicable municipal code.

GC-3.2.5 The Design-Builder shall submit the initial design documents, including drawings and other design details, for the Owner's written review and acceptance. The initial documents shall set forth in detail the requirements for construction of the Project, shall establish the quality levels of materials and systems proposed, and shall identify any deviations from the Program and/or Proposal. Following acceptance of the initial documents and after incorporating any changes required by the Owner, the Design-Builder shall provide final design documents for review and written acceptance by the Owner. The final documents shall include design documents and other information to set forth in detail the requirements for the Work, shall provide information for the use of those in the building trades, and shall also include documents customarily required for regulatory agency approvals.

GC-3.2.6 The Design-Builder shall meet with the Owner periodically to review progress of the design documents. The Owner, the Design-Builder, and their consultants may participate in a value engineering process prior to completion of the design. The Design-Builder's Engineer will meet with and brief the Owner and/or other consultants and answer their questions to determine the advisability of changes in the design documents. Changes may be proposed to the design documents as a result of these processes. The Design-Builder shall make any changes the Owner requests after consultation and advise the Owner if the Design-Builder believes that additional cost or time will result from the change.

GC-3.2.7 Upon the Owner's written acceptance, the Design-Builder, with the assistance of the Owner, shall prepare and file documents required to obtain necessary approvals of governmental authorities having jurisdiction over the Project.

GC-3.2.8 The Design-Builder shall obtain from each of its design professionals, including the Design-Builder's Engineer, and shall provide the Owner with certifications with respect to the documents and services provided by such professionals (a) that, to the best of their knowledge, information and belief, the documents or services to which such certifications relate (i) are consistent with the Program and Proposal (as the Proposal may be modified in writing by the Owner and Design-Builder), (ii) comply with applicable professional practice standards, and (iii) comply with applicable laws, ordinances, codes, rules and regulations governing the design of the Project; and (b) that the Owner and its consultants shall be entitled to rely upon the accuracy of the representations and statements contained in such certifications.

GC-3.2.9 The Design-Builder's design services will result in a Project design in accordance with the Design-Build Documents, including the Program and the Proposal. At the time of performance, the Design-Builder's design professionals shall be properly licensed, equipped, organized and financed to perform the services. Each person who performs the services shall be experienced and qualified to perform the services they perform, and the Owner shall be entitled to rely upon any assistance, guidance, direction, advice or other services provided by any such person. If requested by the Owner, the Design-Builder shall remove from the services, without cost to the Owner or delay to the Project, any person whose removal the Owner reasonably requests.

GC-3.2.10 The Design-Builder shall, at no cost to the Owner, promptly and satisfactorily correct any design services that are defective or not in conformity with the requirements of this Design-Build Contract. The obligations of the Design-Builder to correct defective or nonconforming design services shall not in any way limit any other obligations of the Design-Builder or other rights and remedies available to the Owner under this Design-Build Contract or otherwise by law.

GC-3.2.11 Any subcontracting of design services shall not relieve the Design-Builder from its responsibility for the performance of the design services in accordance with the terms of this Design-Build Contract nor from its responsibility for the performance of any of its other obligations under this Design-Build Contract.

GC-3.2.12 When the Design-Build Documents require that a Subcontractor of any tier provide professional design services or certifications related to systems, materials or equipment, or when the Design-Builder in its discretion provides such design services or certifications itself or through a consultant or Subcontractor of any tier, the Design-Builder shall cause professional design services or certifications to be provided by properly licensed design professionals or shall ensure that all documents bear such design professional's written approval. The Owner shall be entitled to rely upon the adequacy, accuracy and completeness of the services, certifications or approvals performed by such design professionals.

GC-3.3 CONSTRUCTION

GC-3.3.1 The Design-Builder shall be responsible for the supervision and direction of the Work, using the Design-Builder's best skill and attention. The Design-Builder shall be solely responsible for and have control over all design and construction means, methods, techniques, sequences and procedures and for coordinating all portions of the Work under the Design-Build Documents. The Design-Builder shall be responsible for the acts and omissions of the Design-Builder's principals, employees, Subcontractors of any tier, the Design-Builder's Engineer, other design consultants, and their agents and employees, and other persons or entities performing portions of the Work for, or on behalf of, the Design-Builder or any of its Subcontractors of any tier.

GC-3.3.2 The Design-Builder shall perform no construction Work prior to the Owner's review and acceptance of the Design-Builder's final design documents.

GC-3.3.3 The Design-Builder shall perform no portion of the Work for which the Design-Build Documents require the Owner's review of Submittals until the Owner has accepted and taken action on each required Submittal. The construction Work shall also be in accordance with accepted Submittals except that the Design-Builder shall not be relieved of responsibility for deviations from the Design-Build Documents by the Owner's review or acceptance of Shop Drawings, Product Data, Samples or similar Submittals unless the Design-Builder has specifically informed the Owner in writing of such deviation at the time of submittal and (1) the Owner has given its explicit written approval to the specific deviation as a Minor Change in the Work or (2) a Change

Order or Construction Change Directive has been issued authorizing the deviation. The Design-Builder shall not be relieved of responsibility for errors or omissions in Shop Drawings, Product Data, Samples or other Submittals by the Owner' approval, review or acceptance thereof.

GC-3.3.4 The Design-Builder shall direct specific attention, in writing, on any resubmitted documents, to revisions other than those previously requested or noted by the Owner. In the absence of such written notice, the Owner's acceptance of a resubmission shall not apply to such revisions.

GC-3.3.5 The Design-Builder shall plan and lay out all Work in advance of operations so as to coordinate all Work without delay or revision. The Design-Builder is responsible for coordination of all design documents related to specific locations. The Design-Builder shall establish and maintain existing lot lines, restrictions, existing survey markers of any kind and benchmarks. The Design-Builder shall establish and maintain all other lines, levels and benchmarks necessary for the execution of the Work.

GC-3.3.6 The Design-Builder shall keep the Owner informed of the progress and quality of the Work. The Design-Builder shall perform such detailed examination, inspection and quality surveillance of the Work as will ensure that the Work is progressing and being completed in strict accordance with the Design-Build Documents, including the Owner-accepted design documents. The Design-Builder shall be responsible for examination, inspection and quality surveillance of all Work performed by Subcontractors of any tier. The Design-Builder shall determine when it is necessary to perform, and shall perform, tests (in addition to those requested by the Owner or required by the Design-Build Documents) to verify its inspections and ensure that the Work is being completed in strict accordance with the Design-Build Documents.

GC-3.3.7 The Design-Builder shall be responsible for inspection of portions of the Work already performed to determine that such portions are in proper condition to receive subsequent Work. Under no conditions shall a section of Work proceed prior to preparatory work having been completed and made satisfactory to receive the related Work.

GC-3.4 LABOR AND MATERIALS

GC-3.4.1 Unless otherwise explicitly provided in the Design-Build Documents, the Design-Builder shall provide or cause to be provided and shall pay for all design services, labor, materials, equipment, tools, construction equipment and machinery, transportation and other facilities and services necessary for proper execution and completion of the Work, whether temporary or permanent and whether or not incorporated or to be incorporated in the Work.

GC-3.4.2 After the GMP Amendment has been executed, the Owner may consider the Design-Builder's written request for the substitution of material or products in place of those specified in or permitted by the Design-Build Documents only under the circumstances described in and following the procedures of the Design-Build Documents. The written request must be submitted on the Owner's substitution form and include the specifications for the material or product and any proposed change in the GMP, Contract Sum or Contract Time. When a material is specified in the Design-Build Documents, including the Program or Proposal, the Design-Builder may make substitutions only with the written consent of the Owner and, if appropriate, in accordance with a Change Order or Construction Change Directive. By requesting a substitution, the Design-Builder represents that it has personally investigated the proposed material or product and determined that it is equal or better in all respects to that specified or permitted (or if not equal or better in all respects, the Design-Builder shall identify such deficiencies), that the same or better warranty will be provided for the substitution, that complete cost data, including all direct and indirect costs of any kind, has been presented, that it waives any other known or unknown Claim for an increase in the GMP, Contract Sum or Contract Time in any way related to the substitution, that it has coordinated with affected Subcontractors, that the substitution will not negatively impact other parts of the Work, and that it will coordinate the installation of the substitute if accepted and make all associated changes in the Work. The Design-Builder shall not proceed with any substitution without the written approval of the Owner. The Design-Builder will be fully responsible for the performance of the substituted product.

GC-3.4.3 The Design-Builder shall enforce strict discipline and good order among the Design-Builder's employees and other persons carrying out the Work, including observance of any drug testing and all smoking, tobacco, drug, alcohol, parking, safety, weapons, background checks, sexual harassment and other rules governing the conduct of personnel at the Project site. The Design-Builder shall not permit employment of unfit

persons or persons not properly skilled in tasks assigned to them. The Design-Builder shall ensure that all persons performing the Work comply with the Owner's policies, and will not and do not engage in inappropriate conduct or inappropriate contact with staff. No employees of either the Design-Builder or any of its Subcontractors of any tier or its Engineer shall harass, intimidate, have physical contact with, or engage in other verbal or physical conduct or communication of a sexual, intimidating or harassing nature with the Owner's staff, nor create an intimidating, hostile or offensive environment. The Design-Builder shall remove from the Work and Work site any employee or other person who has engaged in such actions or who the Owner reasonably considers objectionable without change in the GMP or Contract Time. Without limiting the generality of the foregoing, the Design-Builder shall ensure by appropriate provisions in each subcontract that the Design-Builder may remove from the Work and Work site any Subcontractor or Subcontractor's employee who has engaged in such action. Failure to comply with these requirements is grounds for immediate termination of the Agreement for cause.

GC-3.4.4 Prevailing Wages

.1 Pursuant to RCW 39.12, "Prevailing Wages on Public Works," no worker, laborer, or mechanic employed in the performance of any part of the Work shall be paid less than the "prevailing rate of wage" (in effect as of the date dictated by WAC 296-127-011(4)) as determined by the Industrial Statistician of the Department of Labor and Industries. The schedule of the prevailing wage rates for the locality or localities where this contract will be performed is attached to the executed contract and made a part of the Design-Build Documents by reference as though fully set forth herein; if not attached, then the applicable prevailing wages are determined by WAC 296-127-011(4) for the county in which the Project is located and are available at http://www.lni.wa.gov/TradesLicensing/PrevWage/WageRates/default.asp. A copy is available for viewing at the Owner's office, and a hard copy will be mailed upon request. To the extent that there is any discrepancy between the attached or provided schedule of prevailing wage rates and the published rates applicable under WAC 296-127-011, or if no schedule is attached, the applicable published rates shall apply with no increase in the GMP. It is the Design-Builder's responsibility to ensure that the correct prevailing wage rates are paid. The Design-Builder shall provide the respective Subcontractors with a schedule of the applicable prevailing wage rates. Questions relating to prevailing wage data should be addressed to the Industrial Statistician upon request.

Mailing Address:	Department of Labor and Industries Prevailing Wage Office PO Box 44540 Olympia, WA 98504
Telephone:	(360) 902-5335
Facsimile:	(360) 902-5300

.2 Pursuant to RCW 39.12.060, in case any dispute arises as to 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 arbitration to the director of the Department of Labor and Industries, and his or her decision shall be final, conclusive and binding on all parties to the dispute.

.3 The Design-Builder shall defend, indemnify and hold the Owner harmless, including attorneys' fees, from any violation or alleged violation by the Design-Builder or any Subcontractor of any tier of Washington's Prevailing Wages Act or Chapter 51 RCW ("Industrial Insurance"), including without limitation RCW 51.12.050.

GC-3.4.5 The Design-Builder shall comply with all applicable provisions of RCW 49.28 ("Hours of Labor").

GC-3.4.6 Pursuant to RCW 49.70, "Worker and Community Right to Know Act," and WAC 296-62-054 *et seq.*, the Design-Builder shall provide the Owner copies of and have available at the Project site a workplace survey or material safety data sheets for all "hazardous" chemicals under the control or use of Design-Builder or any Subcontractor of any tier at the Project site. The Design-Builder shall not be entitled to an increase in the GMP, Contract Time or Contract Sum arising from its failure or alleged failure to comply with this statute or regulation.

GC-3.4.7 Certified Asbestos-Free and Lead-Free Products: All products and materials incorporated into the Project as part of the Work shall be certified as "asbestos-free" and "lead-free" by United States standards. At the completion of the Project, the Design-Builder shall submit Certifications of Asbestos-Free and of Lead-Free Materials certifying that all materials and products incorporated into the Work meet the requirements of this Section, unless such certification is not available or offered by the manufacturer.

GC-3.4.8 The Design-Builder shall be responsible for labor peace on the Project and shall at all times use its best efforts and exercise its best judgment as an experienced contractor and design-builder to adopt and implement policies and practices designed to avoid work stoppages, slowdowns, disputes or strikes where reasonably possible and practical under the circumstances, and shall at all times maintain Project-wide labor harmony, with the exception of disputes or strikes beyond the Design-Builder's control.

GC-3.4.9 Materials shall conform to the manufacturer's standards in effect at the date of execution of the GMP Amendment and shall be installed in strict accordance with the manufacturer's instructions, specifications and directions. The Design-Builder shall, if required in writing by the Owner, provide satisfactory evidence regarding the kind and quality of any materials identifying thereon the source, and warranting their quality and compliance with the Design-Build Documents.

GC-3.4.10 Apprenticeship

.1 Pursuant to RCW 39.04.320, no less than fifteen percent (15%) of the Labor Hours shall be performed by apprentices, unless a different amount is permitted or otherwise required by law.

.2 Apprenticeship hours shall be performed by participants in training programs approved by the Washington State Apprenticeship Council.

.3 "Labor Hours" means the total hours of workers receiving an hourly wage who are directly employed on the site of the public works project. "Labor hours" includes hours performed by workers employed by the Design-Builder and all Subcontractors working on the Project. "Labor hours" does not include hours worked by foremen, superintendents, owners, and workers who are not subject to prevailing wage requirements of RCW 39.12.

.4 During the term of this Contract, the Owner may adjust the apprenticeship labor hour requirement upon its finding or determination that includes:

(1) A demonstration of lack of availability of apprentices in the geographic area of the Project;

(2) A disproportionately high ratio of material costs to labor hours that does not make feasible the required minimum levels of apprenticeship participation;

(3) Demonstration by participating contractors of a good faith effort to comply with the requirements of RCW 39.04.300, 39.04.310 and 39.04.320;

(4) Small contractors or subcontractors (e.g., small or emerging businesses) would be forced to displace regularly employed members of their workforce;

(5) The reasonable and necessary requirements of the Contract render apprentice utilization infeasible at the required level (e.g., the number of skilled workers required and/or limitations on the time available to perform the Work preclude utilization of apprentices); or

(6) Other criteria the Owner deems appropriate, which are subject to review by the office of the Governor.

.5 The Design-Builder shall report apprentice participation to the Owner on a monthly basis electronically and directly to L&I using its on-line portal, and on forms provided or approved by the Owner. In addition, the Design-Builder shall submit certified payroll records to document the goal, with any birthdates and social security numbers (and any other sensitive personal information) redacted so as such copies may be used to respond to any public records requests.

.6 To comply with the changes to RCW 39.04.320 that are effective as of January 1, 2020, the following provisions also apply:

(1) This Section GC-3.4.11 specifies that the 39.04.320 apprenticeship goals should be met;

(2) The Owner shall provide a monetary incentive of One Thousand Dollars for meeting these goals;

(3) The Design-Builder shall pay a monetary penalty of One Thousand Dollars for not meeting these goals;

(4) The Owner is not in a position within existing resources to identify an expected cost value to be included in the bid associated with meeting these goals; and

(5) Design-Builder and its Subcontractors are not required to exceed these apprenticeship utilization requirements.

GC-3.4.11 Certified Payrolls

GC-3.4.11.1 Design-Builder and its Subcontractors of all tiers shall submit certified payrolls in accordance with RCW 39.12.120.

GC-3.5 WARRANTY

GC-3.5.1 The Design-Builder warrants to the Owner that materials and equipment provided under the Design-Build Contract will be of good quality and new unless the Design-Build Documents require or explicitly permit otherwise. The Design-Builder further warrants that the Work will be performed in a skillful and workmanlike manner, free from defects not inherent in the quality required, that the Work will comply with all applicable laws, and that the Work will conform to the requirements of the Design-Build Documents. Work not conforming to these requirements, including substitutions not properly approved and authorized, is considered defective. The Design-Builder's warranty excludes damage or defect caused by abuse by the Owner, alterations to the Work not executed or supervised by the Design-Builder, improper or insufficient maintenance, or normal wear and tear. If required by the Owner, the Design-Builder shall provide satisfactory evidence as to the kind and quality of materials and equipment. The Design-Builder is not relieved of its general warranty obligations by the specification of a particular product or procedure in the Design-Build Documents. Warranties in the Design-Build Documents shall survive completion, acceptance and final payment.

GC-3.5.2 The Design-Builder shall collect, assign, and deliver to the Owner any specific written warranties given by others. The Design-Builder shall cause each Subcontractor of any tier to execute and shall countersign, secure and provide directly to the Owner all required, written warranties and guarantees, which shall extend to the Owner all rights, claims, benefits and interests that the Design-Builder may have under express or implied warranties or guarantees against Subcontractors of any tier for defective or non-conforming Work. Prior to providing the Owner with executed guarantees and warranties, the Design-Builder shall provide copies to the Owner for review and approval. These warranties are in addition to the warranty in the prior Section and shall in no manner diminish that warranty.

GC-3.6 TAXES

GC-3.6.1 The Design-Builder shall pay all taxes, including sales, consumer, use, B&O, income, and similar taxes for the Work provided by the Design-Builder that are legally enacted on the date of the Agreement, whether or not yet effective or merely scheduled to go into effect. The only taxes excluded from the GMP and Contract Sum and separately reimbursable by the Owner are State and local sales taxes that will be calculated and paid based on the Contract Sum. Tariffs are not taxes and shall not increase the GMP.

GC-3.7 PERMITS, FEES, AND NOTICES

GC-3.7.1 Unless otherwise provided in the Design-Build Documents including this Section GC-3.7.1, the Design-Builder shall secure and pay as a Cost of the Work within the GMP for all permits fees, licenses, and inspections by government agencies necessary for the proper execution and completion of the Work, including without limitation Subcontractor fees, review and application fees for Shop Drawings, inspection and reinspection fees, and renewal fees and penalties, excepting only any permits and fees that the Owner has specifically listed as the Owner's responsibility in the Design-Build Documents. The Design-Builder shall obtain any permit renewals during the course of the Work at no change in the GMP. The Design-Builder will be responsible without

reimbursement for any penalties arising from the building permit or any other required permit unless such penalties are caused by the Owner. The Owner shall pay all utility connection fees. The Design-Builder shall also be responsible, as part of its design responsibilities, for preparing and submitting in a timely manner to avoid delay in construction, all permit applications, including any design documents needed for permit applications. The Design-Builder shall submit all documentation needed to secure all permits that are required for the Work.

GC-3.7.2 The Design-Builder shall coordinate and schedule all Work with permitting agencies, utility companies and other agencies with jurisdictional authority necessary for completion of the Work. The Design-Builder shall be responsible for providing all information, documents, and fees to the permitting agencies, utility companies, and other such agencies determined to have jurisdictional authority in a timely manner and as necessary to obtain and coordinate permits and other connections. The Design-Builder shall keep the Owner informed of communications with these authorities and shall obtain all permit renewals during the course of the Work.

GC-3.8 ALLOWANCES

GC-3.8.1 With the Owner's explicit approval, the Design-Builder shall include in the GMP any allowances stated in the Design-Build Documents. Allowances may only be used for items that both the Owner and the Design-Builder agree cannot be accurately priced at the time of the GMP Amendment and for reasons that are not the Design-Builder's fault. Unless otherwise provided in the Design-Build Documents:

- **.1** allowances shall cover the cost to the Design-Builder of materials and equipment delivered at the site and all required taxes except sales tax, less applicable trade discounts;
- **.2** Design-Builder's costs for unloading and handling at the site, labor, installation costs, overhead, profit and other expenses contemplated for stated allowance amounts shall be included in the GMP but not in the allowances; and
- **.3** whenever costs are more than or less than an allowance, the GMP shall be adjusted by a Change Order to reconcile the allowance.

GC-3.8.2 Materials and equipment under an allowance shall be proposed by the Design-Builder and selected by the Owner with reasonable promptness.

GC-3.9 DESIGN-BUILDER'S SCHEDULE

GC-3.9.1 The Design-Builder will be responsible for planning, scheduling, managing and reporting the progress of the Work in accordance with all of the specific methods and Submittals described in the Design-Build Documents. The Design-Builder shall, within ten (10) days after being awarded the Contract, prepare and submit for the Owner's information a preliminary and overall Project schedule for the design and construction, which shall be consistent with the requirements of the Design-Build Documents. The Owner does not have the responsibility to review the substance of the Design-Builder's Project schedule. This overall Project schedule shall be regularly updated in consultation with the Owner and others, and the Design-Builder shall meet with the Owner at least once per month (virtual meeting being acceptable) to review the schedule and schedule comments. At least thirty (30) days before commencement of construction, and after consultation with its Subcontractors, the Design-Builder shall submit an electronic (native) copy of the Design-Builder's updated Project schedule for construction consistent with the requirements of the Design-Build Documents. This CPM schedule shall not exceed the time limits and shall be in such detail as required by the Design-Build Documents, shall be revised at least monthly during construction, shall address the completion dates and milestones required by the Design-Build Documents, shall provide for expeditious and practicable execution of the construction and shall include allowances for the Owner's review and for approval of submissions by authorities having jurisdiction over the Project. The Design-Builder shall allocate in the schedule of values a separate line item to cover the initial Project schedule, the updated Project schedule for construction, and all monthly updates. The Design-Builder shall request payment for this line item with each Application for Payment, based upon the overall percentage of completion of the Project. For any month that the Design-Builder fails to submit a satisfactory Project schedule or an accurate schedule update identifying the current status of the Work, the Design-Builder shall not be entitled to any payment for scheduling for that month, and the percentage of the scheduling line item represented by that month's percentage of completion of the Work shall, at the Owner's option, be permanently deducted from the GMP by Change Order.

GC-3.9.1.1 The Design-Builder's Project schedule shall be prepared by a competent scheduler, and used by the Design-Builder to plan, prosecute, and coordinate the Work in an orderly and expeditious manner. The Design-Builder's Project schedule may be used by the Owner to evaluate progress and status at the various stages of the

Project, allocate funds consistent with the schedule of values, determine the impact of any changes to the Contract, and establish the basis for progress payments. Such review shall not constitute an approval or acceptance of the Design-Builder's construction means, methods or sequencing, or its ability to complete the Work in a timely manner.

GC-3.9.1.2 The Design-Builder's Project schedule shall be based upon a critical path method ("CPM") analysis of construction and related activities and sequence of operations needed for the orderly performance and completion of all separable parts of the Work in accordance with the Contract and within the Contract Time. The schedule shall be in the form of a precedence diagram and activity listing, and shall be time-scaled. It shall include the Notice to Proceed date, the dates of interim milestones such as the completion of design and the commencement of construction, the Date(s) of Substantial Completion, and the Date(s) of Final Completion in accordance with the Design-Build Documents. The Critical Path shall be clearly indicated on the Design-Builder's Project schedule. At the Owner's discretion, the Design-Builder may be required to prepare and submit an electronic spreadsheet (formatted in a manner compatible with MS Excel) that allocates the approved schedule of values to the appropriate schedule activities contained in the Project schedule.

GC-3.9.1.3 The CPM schedule shall show in detail and in order the sequence of all significant activities, their descriptions, start and finish dates, durations, links, and dependencies, necessary to complete all Work and any separable parts thereof. Predecessor and successor reports identifying links and relationships shall be provided if requested by the Owner. The activity listing shall show the following information for each activity on the network diagram:

.1 Activity description;
.2 Duration (not to exceed fifteen (15) working days);
.3 Start and finish dates;
.4 Total float time and free float time; and
.5 Dates that Work must be performed and completed by other contractors to support the Work and the interfaces with such other contractors.

GC-3.9.1.4 A schedule for the purchase and receipt of items required for performance of the Work, identifying submittal and approval dates and showing lead times between purchase order placement and delivery dates, shall be integrated with the Design-Builder's Project schedule. The Design-Builder shall provide the Owner with copies of all purchase orders and acknowledgments and fabrication, production, and shipping schedules for all major items on the critical path within ten (10) days of Design-Builder's receipt of each purchase order, acknowledgment or schedule. The Owner shall not be deemed to have approved or accepted any such material, or its schedule, nor deemed to have waived this requirement if some or all of the material is not received.

GC-3.9.1.5 Milestone completion dates shall be clearly defined on the Design-Builder's Project schedule. They shall include, at a minimum:

.1 Notice to Proceed;
.2 Design Development Start and End Dates, Final Design Documents Start and End Dates, Subcontractor Selection, and Planned Submission of the Design Documents for Permitting Agency Approval;
.3 On-Site Start;
.4 Trade Completions;
.5 Date of Commissioning;
.6 Phase(s) Completions;
.7 Statutory Authorities Occupancy Approvals;
.8 Substantial Completion (move-in ready);
.9 Punch list Completion; and
.10 Final Completion.

If abbreviations are used in the Design-Builder's Project schedule, a legend shall be provided to define all abbreviations.

GC-3.9.1.6 The Project schedule shall be prepared using a generally accepted and readily available scheduling software acceptable to the Owner; only one scheduling software shall be used. The progress schedules shall be submitted in native electronic format in Primavera P6 by email, which must include data files that can be loaded onto the Owner's copy of the scheduling software and be capable of being printed.

GC-3.9.1.7 At least once per month when meeting with the Owner, the Design-Builder shall submit (a) an updated Design-Builder's Project schedule (based on the CPM baseline schedule) accurately identifying the current status of the Work and showing the activities planned for the next month and (b) a report showing actual start and finish dates compared to the original CPM baseline from the previous month. The schedule shall show, among other detail, all Work activities numbered according to the CPM baseline schedule, any Submittal or delivery activities with less than five (5) days' float, and any permitting, testing, or inspection activities by others. The updated Design-Builder's Project schedule shall display actual start dates and percent completion or actual finish dates if the activity is one hundred percent (100%) complete. Any changes in logic or duration of the activities contained in the updated Design-Builder's Project schedule, insertion of new activities, or deletion of planned activities, shall be submitted in a separate report describing such changes.

GC-3.9.1.8 The Design-Builder shall utilize and comply with the Design-Builder's Project schedule. The Design-Builder shall not be entitled to any adjustment in the Contract Time, the Design-Builder's Project schedule, or the GMP, or to any additional payment of any sort by reason of the loss or use of any float time, including time between the Design-Builder's anticipated completion date and end of the Contract Time, whether or not the float time is described as such on the Design-Builder's Project schedule. To ensure that the Owner is substantively aware and effectively able to mitigate any Project delays, the Design-Builder shall not be entitled to any extension of time, compensable or otherwise, for any delay that occurred during any time the Design-Builder has not timely submitted an updated Project schedule as required by the Design-Build Documents.

GC-3.9.1.9 Should the Design-Builder fail to meet any scheduled date as shown on the current Design-Builder's Project schedule, the Design-Builder shall, if requested, be required at its own expense to submit within ten (10) days of the request an updated Design-Builder's Project schedule at no cost to the Owner. If the Design-Builder's progress indicates to the Owner that the Work will not be Substantially Completed within the Contract Time or will not meet a scheduled date as shown on the Project schedule, the Design-Builder shall, at its own expense, increase its work force and/or working hours to bring the actual completion dates of the activities into conformance with the Design-Builder's Project schedule and Substantial Completion within the Contract Time. The Design-Builder shall reschedule and also submit a revised Design-Builder's Project schedule at its own expense within ten (10) days of notice from the Owner that the sequence of Work varies significantly from that shown on the Design-Builder's Project schedule showing Work to complete on original Contract Time with approved extensions. The Owner may withhold some or all of the progress payments until such time as the Design-Builder has provided a revised Project schedule approved and in a form satisfactory to the Owner. The Owner will not be obligated to review the substance or sequence of the Design-Builder's Project schedule or otherwise determine whether it is correct, appropriate or attainable.

GC-3.9.1.10 Schedule Float Utilization. Any float time to activities not on the critical path shall belong to the Project (i.e., the Design-Builder and the Owner), and may be used by the Project to optimize its construction process. Any float time between the end of the final construction activity and the final completion date shall belong to the Owner and may be used by the Owner in determining if the Contract Time should be extended for changes in the Contract or for delays caused by the Owner. The Design-Builder will not be entitled to any adjustment in the Contract Time, the Project schedule, or the GMP, or to any additional payment of any sort by reason of the Owner's use of float time between the end of the final construction activity and the final completion date or by reason of the loss or use of any float time, including time between the Design-Builder's anticipated completion date and end of the Contract Time, whether or not the float time is described as such on the Design-Builder's Project schedule.

GC-3.9.2 Submittal Schedule. The Design-Builder shall prepare, for the Owner's acceptance, a Submittal schedule coordinated with the Project schedule promptly after being awarded the Contract, and update it regularly thereafter. The Submittal schedule shall allow the Owner reasonable time to review Submittals in accordance with the Design-Build Documents. The Design-Builder should expect a response time of at least fourteen (14) days for the Owner's review. Complex, inter-related or multiple Submittals may take longer. The

Owner cannot guarantee response times from governmental authorities, such as permitting agencies. If the Design-Builder fails to submit a Submittal schedule acceptable to the Owner, the Design-Builder shall not be entitled to any increase in the GMP or Contract Sum or any extension of the Contract Time based on the time required to review Submittals or any resulting delay in the procurement of material.

GC-3.9.3 Notice of Delays. The Design-Builder shall notify the Owner in writing of any actual or anticipated event that is delaying or is likely to delay achievement of any milestone or performance of any critical path activity of the design or Work. Such notice shall be promptly issued, and in no event later than seven (7) days after the event causing the delay. The Design-Builder shall indicate the expected duration of the delay, the anticipated effect of the delay on the Project schedule, and the action being or to be taken to correct the problem. Provision of such notice does not relieve the Design-Builder of its obligation to complete the Work within the Contract Time. If the Design-Builder believes that the delay entitles it to an increase in the GMP, Contract Sum or Contract Time, then the Design-Builder shall also submit a Claim as provided in the Design-Build Documents.

GC-3.10 DOCUMENTS AND SAMPLES AT THE SITE

GC-3.10.1 The Design-Builder shall maintain at the site for the Owner, and update at least weekly, one record copy of the design documents, Addenda, Change Orders, Construction Change Directives, and other Modifications, in good order and marked currently to record field changes and selections made during construction, and one record copy of accepted Submittals. These documents, including all as-built drawings, whether changes occur or not, shall be available to the Owner during the Project and shall be delivered to the Owner upon completion of the Work as a record of the Work as constructed. The Design-Builder shall review and follow the as-built drawing standards referenced in the Design-Build Documents. The location of all new and existing piping, valves, conduit, cabling and utilities, as located during the course of construction, shall be appropriately marked until the actual field location dimensions and coordinates are incorporated on the as-built drawings, and all mechanical and electrical deviations and changes shall be included. As-built documents shall include all Architectural, Mechanical, Electrical, Structural, Landscape, and Civil as-built drawings. These documents, as well as the permit set of plans, shall be available to the Owner at the site and reviewed with them on a monthly basis. Upon Final Completion of the Work, the Design-Builder shall transfer all record information in a clear and legible manner as described in the Design-Build Documents and in compliance with all requirements of local governmental entities, shall certify in writing that these documents reflect complete and accurate "as-built" conditions and shall deliver the following in a clear, clean and legible manner and in compliance with all requirements of local governmental entities: (i) complete integrated copies of the documents in both paper form in good condition and in electronic format, (ii) the permit set of plans, and (iii) full-size record documents, Shop Drawings, Addenda, maintenance manuals and warranties to the Owner in accordance with the provisions of the Design-Build Documents. Satisfactory maintenance of up-to-date as-built drawings on a monthly basis will be a requirement for approval of progress payments.

GC-3.11 SUBMITTALS

GC-3.11.1 Shop Drawings are Submittals consisting of drawings, diagrams, schedules and other data specially prepared for the Work by the Design-Builder or a Subcontractor of any tier, manufacturer, supplier or distributor to illustrate some portion of the Work.

GC-3.11.2 Product Data are Submittals consisting of illustrations, standard schedules, performance charts, instructions, brochures, diagrams and other information provided by the Design-Builder to illustrate materials or equipment for some portion of the Work.

GC-3.11.3 Samples are Submittals consisting of physical examples that illustrate materials, equipment or workmanship and establish standards by which the Work will be judged.

GC-3.11.4 Submittals are not Design-Build Documents. The purpose of their submission is to demonstrate for those portions of the Work for which Submittals are required the way that the Design-Builder proposes to conform to the Design-Build Documents. Review and acceptance of Submittals by the Owner is subject to the limitations of the Design-Build Documents and shall not constitute an approval of the Design-Builder's means and methods or a waiver or modification of any requirement of the Design-Build Documents. Informational Submittals upon which the Owner is not expected to take responsive action may be so identified in the Design-Build Documents. Submittals that are not required by the Design-Build Documents may be (but are not required to be) returned by the Owner without action.

GC-3.11.5 The Design-Builder shall review for compliance with the Design-Build Documents, note any deviations, and approve in writing and submit to the Owner required Submittals with reasonable promptness and in such sequence to not delay the Work or in the activities of the Owner or of separate contractors. At the time of submission, the Design-Builder shall inform the Owner in writing of any deviation in the Submittals from the requirements of the Design-Build Documents. So far as practicable, each Submittal shall bear a cross reference note referring to the drawing and, if applicable, the detail to which it relates, in order to facilitate checking of the Submittal and its prompt return to the Design-Builder. Shop Drawings for interrelated Work shall be submitted at approximately the same time. The Design-Builder shall stamp and initial its approval on all Submittals prior to submitting them to the Owner indicating that the Design-Builder has satisfied its responsibilities under the Design-Build Documents for review of the Submittal. The Design-Builder shall keep accurate records of the receipt, review and delivery of all Submittals and shall submit to the Owner reports when requested on the status of their review.

GC-3.11.6 By approving and submitting Submittals, the Design-Builder represents that the Design-Builder 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 Design-Build Documents.

- **.1** Each Submittal shall bear a stamp or specific written indication that Design-Builder has satisfied Design-Builder's responsibilities under the Design-Build Documents with respect to the review of the submission.
- **.2** Each Submittal shall be accompanied by a completed Submittal Cover Sheet, as approved by the Owner, which shall clearly identify the section of Work, any material and supplier information, as well as other pertinent data.
- **.3** The Design-Builder will track all Submittals on the Submittal schedule coordinated with the Project schedule and will submit complete Submittal packages together for approval. Partial Submittal packages are unacceptable without the prior approval of the Owner. Submittals requiring resubmission shall be resubmitted as a complete package to provide a complete Submittal package for review and acceptance.

GC-3.11.7 Regardless of how a Submittal is marked, the Design-Builder should not presume that the Owner has reviewed a Submittal in every aspect. Any corrections or modifications to a Submittal made by the Owner shall be deemed accepted by the Design-Builder, without change in GMP or Contract Time, unless the Design-Builder provides the Owner with written notice no later than seven (7) days after delivery of a Submittal to the Owner and at least three (3) working days before commencing any Work from such Submittal, whichever occurs earlier. The Design-Builder shall make all corrections requested by the Owner and, when requested by the Owner, provide a corrected Submittal without change in the GMP or Contract Time.

GC-3.12 USE OF SITE

GC-3.12.1 The Design-Builder shall confine operations at the site to areas permitted by law, ordinances, covenants, codes and restrictions, permits and the Design-Build Documents, and shall not unreasonably encumber the site with materials or equipment.

GC-3.12.2 Portions of the site may be occupied and in use during construction and the Design-Build Documents may identify specific phasing, sequencing, and safety measures beyond those specified in these revised General Conditions. The Design-Builder is responsible to coordinate its Work with any occupation or use at no increase to the Contact Sum or Contract Time and at no disruption to the occupancy or use.

GC-3.13 CUTTING AND PATCHING

GC-3.13.1 The Design-Builder shall be responsible for cutting, fitting or patching as required to complete the Work and make parts fit together properly. All areas requiring cutting, fitting and patching shall be restored to the condition exiting prior to the cutting, fitting and patching, unless otherwise required by the Design-Build Documents.

GC-3.13.2 The Design-Builder shall not damage or endanger a portion of the Work or any fully or partially completed construction of the Owner or others by cutting, patching or otherwise altering such construction or by excavation. The Design-Builder shall not cut or otherwise alter such construction by the Owner or a separate contractor except with written consent of the Owner and of such separate contractor; such consent shall

not be unreasonably withheld. The Design-Builder shall not unreasonably withhold from the Owner or a separate contractor the Design-Builder's consent to cutting or otherwise altering the Work.

GC-3.13.3 Existing structures and facilities, including but not limited to buildings, landscaping, utilities, topography, streets, curbs, and walks, that are damaged or removed due to excavations or other construction operations of the Design-Builder, shall be patched, repaired or replaced by the Design-Builder to the satisfaction of the Owner, the owner of such structures and facilities, and governmental authorities having jurisdiction. In the event the governmental authorities require that the repairing and patching be done with their own labor and/or materials, the Design-Builder shall abide by such regulations and it shall pay for such Work at no additional cost to the Owner.

GC-3.14 CLEANING UP

GC-3.14.1 The Design-Builder shall keep the premises and surrounding area, including roads, free from accumulation of waste materials or rubbish caused by operations under the Design-Build Documents. The Design-Builder shall furnish portable garbage and recycling containers on site for use by all trades. At the Owner's request and, in any event, at the completion of the Work, the Design-Builder shall remove from and about the Project waste materials, recycled materials, rubbish, the tools, construction equipment, machinery and surplus materials.

GC-3.14.2 If the Design-Builder fails to clean up as provided in the Design-Build Documents, the Owner may do so and the cost thereof shall be charged to the Design-Builder.

GC-3.15 ACCESS TO WORK

GC-3.15.1 The Design-Builder shall provide the Owner access to the Work in preparation and progress wherever located.

GC-3.16 ROYALTIES, PATENTS AND COPYRIGHTS

GC-3.16.1 The Design-Builder shall pay all royalties and license fees. The Design-Builder shall defend suits or claims for infringement of copyrights and patent rights and shall defend, indemnify, and hold the Owner harmless from loss on account thereof, including any expenses incurred in proving the right to indemnification and for any damages awarded. If the Owner is enjoined from the operation or use of the Work, or any part thereof, as a result of any patent or copyright suit, the Design-Builder shall at its sole cost take all steps as are necessary to procure the right to operate or use the Work, or shall modify or replace the Work at its own cost to avoid the infringement.

GC-3.17 INDEMNIFICATION

GC-3.17.1 To the fullest extent permitted by law and subject to the following conditions in this Section GC-3.17 including the subparagraphs below, the Design-Builder shall defend, indemnify and hold harmless the Owner, its board members, directors, officials, employees, consultants, Project Manager, and volunteers, the consultants, and the agents and employees, successors and assigns of any of them (collectively, the "Indemnified Parties"), from and against third-party claims, damages, losses (including loss of use) and expenses, direct and indirect, or consequential, including but not limited to costs, design professional and consultant fees, and attorneys' fees incurred on such claims and in proving the right to indemnification, arising out of or resulting from or connected to performance of the Work or the acts or omissions of the Design-Builder, the Design-Builder's Engineer or other design professional, a Subcontractor of any tier, their agents or anyone directly or indirectly employed by any of them or anyone for whose acts they may be liable ("Indemnitor"). Such obligation shall not be construed to negate, abridge or reduce other rights or obligations of indemnity that would otherwise exist as to a party or person described in this Section.

GC-3.17.1.1 The Design-Builder will fully defend, indemnify and hold harmless the Indemnified Parties for the sole negligence or willful misconduct of the Indemnitor.

GC-3.17.1.2 If such claims are caused by or are resulting from the sole negligence of the Indemnified Parties, their agents or employees, then the Design-Builder shall have no duty to defend, indemnify, and hold harmless the Indemnified Parties.

GC-3.17.1.3 If such claims are caused by or are resulting from the concurrent negligence of (i) the Indemnified Parties or the Indemnified Parties' agents or employees, and (ii) the Design-Builder or the Design-Builder's

agents or employees, then the Design-Builder shall be obligated to defend, indemnify, and hold harmless the Indemnified only to the extent of the Indemnitor's negligence.

GC-3.17.2 The Design-Builder agrees to being added by the Owner as a party to any arbitration or litigation with third parties in which the Owner alleges indemnification or contribution from the Design-Builder, any of its Subcontractors of any tier, anyone directly or indirectly employed by any of them, or anyone for whose acts any of them may be liable. The Design-Builder agrees that all of its Subcontractors of any tier will, in their subcontracts, similarly stipulate; in the event any does not, the Design-Builder shall be liable in place of such Subcontractor(s) of any tier. To the extent that any portion of this Section GC-3.17 is stricken by a court or arbitrator for any reason, all remaining provisions shall retain their vitality and effect. The obligations of the Design-Builder under this Section GC-3.17 shall not be construed to negate, abridge, or otherwise reduce any other right or obligations of indemnity which otherwise exist as to any party or person described in this Section GC-3.17. To the extent the wording of this Section GC-3.17 would reduce or eliminate an available insurance coverage, this Section GC-3.17 shall be considered modified to the extent that such insurance coverage is not affected. This Section GC-3.17 shall survive completion, acceptance, final payment and termination of the Contract.

GC-3.17.3 In claims against any person or entity indemnified under this Section GC-3.17 by an employee of the Design-Builder, the Design-Builder's Engineer or other design professional, a Subcontractor of any tier, anyone directly or indirectly employed by them or anyone for whose acts they may be liable, the indemnification obligation under Section GC-3.17 shall not be limited by a limitation on amount or type of damages, compensation or benefits payable by or for the Design-Builder, the Design-Builder's Engineer or other design professional or a Subcontractor of any tier under workers' compensation acts, disability benefit acts or other employee benefit acts. After mutual negotiation of the parties, the Design-Builder waives immunity, but only as to the Owner and its employees, agents, and consultants, under Title 51 RCW, "Industrial Insurance." IF THE DESIGN-BUILDER DOES NOT AGREE WITH THIS WAIVER, IT MUST STRIKE THIS PROVISION, AND SUCH STRIKE MUST BE INITIALLY AS ACCEPTED BY THE OWNER, OR THE DESIGN-BUILDER WILL BE DEEMED TO HAVE NEGOTIATED AND WAIVED THIS IMMUNITY.

GC-3.18 PROJECT MANAGEMENT

GC-3.18.1 The Design-Builder shall employ a competent, experienced project manager, project engineer, superintendent and necessary assistants who shall be in attendance at the Project site during performance of the Work. The superintendent shall represent the Design-Builder, and communications given by or to the superintendent shall be as binding as if given by or to the Design-Builder. Important communications shall be confirmed in writing. Other communications shall be similarly confirmed on written request in each case.

GC-3.18.2 The superintendent, project manager and project engineer shall be employees of the Design-Builder. The superintendent and project engineer, as well as appropriate Subcontractor supervisory personnel (foreman level or above), shall remain on the Project site whenever Subcontractors of any tier are present and not less than eight (8) hours per day, five (5) days per week, unless the job is closed down due to a legal holiday, a general strike, conditions beyond the control of the Design-Builder, termination of the Design-Build Contract in accordance with the Design-Build Documents, or Substantial Completion is attained. After Substantial Completion, a qualified, experienced representative of the Design-Builder with authority to bind the Design-Builder shall remain on site full-time until Final Completion is attained. Similarly, appropriate Subcontractor supervisory personnel (foreman level or above) shall also be present at the Project site whenever Subcontractor Work of any tier is being performed whether before or after Substantial Completion. Neither the superintendent nor the Design-Builder's project manager or project engineer shall be changed without the approval of the Owner, which shall not be unreasonably withheld. The Design-Builder's superintendent shall not be employed on any other project during the course of the Work.

GC-3.18.3 Within seven (7) days after award of the Contract, the Design-Builder shall provide to the Owner:

.1 A chain-of-command organizational chart which includes all supervisory personnel, including the Design-Builder's Engineer, the project manager, the project engineer and the superintendent, assistant superintendent and lead foreman, that the Design-Builder intends to use on the Work. The chart shall specify any limits of authority for each person, including any limitation on that person's ability to speak for and bind the Design-Builder, as well as any limits on decision-making authority with respect to specific dollar values, Contract Time, and issues affecting quality of the Work.

.2 A list of telephone numbers for all key personnel of the Design-Builder and its principal Subcontractors for purposes of contacting personnel after hours in the event of an emergency. The list shall be periodically updated as necessary to ensure the Owner has the most current information.

This chart and list shall be updated as personnel and Subcontractors are added to the Project.

GC-3.18.4 The Design-Builder shall not employ an Engineer, superintendent, project manager, or project engineer to whom the Owner objects, regardless of when such objection is raised. If the Engineer, superintendent, project manager, or project engineer is replaced during the Project at the Owner's request, the replacement shall not impact the Contract Sum or Contract Time. The Design-Builder shall not change the Engineer, superintendent, project manager, or project engineer without the Owner's consent, which shall not unreasonably be withheld or delayed. The Design-Builder shall have available for Work on site experienced, skilled workers such as carpenters, laborers, and erection specialists, to perform Work as needed.

GC-3.19 PROJECT MEETINGS

GC-3.19.1 During the period commencing with the issuance of Notice to Proceed and ending with the date of Final Completion of the Work, the Design-Builder shall attend and participate in and ensure applicable design consultants and Subcontractors of any tier and suppliers attend and participate in:

1. A pre-design or "kickoff" meeting;
2. A preconstruction meeting;
3. Regular weekly Project status meetings during design and construction to discuss the Design-Builder's progress, to obtain necessary approvals, and generally to keep the Owner informed and involved in the progress of the Project;
4. During construction, monthly scheduling meetings, which shall occur by the twentieth (20th) day of each month and be attended by the Design-Builder and the Design-Builder's scheduler (the individual responsible for preparing the Design-Builder's CPM Project schedule and updates), shall be conducted to discuss (1) the current progress of the Work as compared to the most recent Project schedule, (2) necessary updates to the Project schedule to conform to the Design-Build Contract and the current status of the Work, all of which shall be required prior to the Design-Builder submitting its next Application for Payment to the Owner, and (3) other scheduling related issues; and
5. Other meetings scheduled from time to time by the Owner to review progress of the design and construction Work and other pertinent matters.

If requested, the Design-Builder shall prepare and submit three-week look-ahead schedules that relate to the overall Project schedule and show actual starts and finishes as compared to planned progress at the weekly Project meetings. At the monthly scheduling meeting, the Design-Builder shall submit an updated Design-Builder's Project schedule based on the baseline CPM schedule, which shall identify accurately the current status of the Work. As necessary, the Owner will maintain minutes of all meetings.

ARTICLE GC-4 DISPUTE RESOLUTION

GC-4.1 CLAIMS AND DISPUTES

GC-4.1.1 Definition. A Claim is a demand or assertion by one of the parties seeking, as a matter of right, adjustment or interpretation of the requirements of the Design-Build Document, payment of money, extension of time, or other relief with respect to the Design-Build Contract. The term "Claim" also includes other disputes and matters in question between the Owner and Design-Builder arising out of or relating to the Design-Build Documents. Claims must be initiated in writing and include the information and substantiation required by the Design-Build Documents. The responsibility to substantiate a Claim shall rest with the party making the Claim. Neither a Request for Information, nor a Construction Change Directive, nor a Change Order, nor a Change Order proposal, nor a reservation of rights, nor minutes of a meeting, nor an Owner's request for or the Design-Builder's response to a Change Order proposal, nor a notice of a potential or future Claim shall constitute a Claim.

GC-4.1.2 Continuing Performance. Pending final resolution of a Claim, including the contractual dispute resolution process, the Design-Builder shall proceed diligently with performance of the Design-Build Contract and shall maintain the Design-Builder's Project schedule. The Owner shall also continue to make payments of undisputed amounts in accordance with the Design-Build Documents.

GC-4.1.3 Claims for Concealed or Unknown Conditions. If conditions are encountered at the site that are (1) subsurface or otherwise concealed physical conditions that differ materially from those indicated in any soils reports or other reports available to the Design-Builder or otherwise known or available to the Design-Builder prior to commencement of construction or (2) unknown physical conditions of an unusual nature that differ materially from those ordinarily found to exist and generally recognized as inherent in construction activities of the character provided for in the Design-Build Documents, then the Design-Builder shall give written notice to the Owner promptly before conditions are disturbed and in no event later than three (3) days after first observance of the conditions. The Owner will promptly investigate such conditions and, if they differ materially and cause an increase or decrease in the Design-Builder's cost or time of performance of any part of the Work, will propose an equitable adjustment in the GMP or Contract Time, or both, consistent with the requirements of the Design-Build Documents. If the Owner determines that the conditions at the site are not materially different from those indicated in the Design-Build Documents and that no change in the terms of the Contract is justified, the Owner shall so notify the Design-Builder in writing, stating the reasons. Any Claim of the Design-Builder arising from the Owner's determination shall be made in accordance with the dispute resolution procedure of the Design-Build Documents.

GC-4.1.4 Claims for Additional Cost. If the Design-Builder wishes to make a Claim for an increase in the GMP or Contract Sum, written notice as provided herein shall be given before proceeding to execute the Work and must be made in accordance with this Article GC-4, or it will be waived. Prior notice is not required for Claims relating to an emergency endangering life or property.

GC-4.1.5 If the Design-Builder believes additional cost is involved for reasons including but not limited to (1) a written interpretation from the Owner, (2) an order by the Owner to stop the Work where the Design-Builder was not at fault, (3) a written order for a Minor Change in the Work issued by the Owner, (4) failure of payment by the Owner, (5) termination or suspension of the Design-Build Contract by the Owner, or (6) any other cause that the Design-Builder believes to be the responsibility of the Owner, a Claim shall be filed in accordance with this Article GC-4.

GC-4.1.6 Claims for Additional Time

GC-4.1.6.1 If the Design-Builder wishes to make Claim for an increase in the Contract Time, a written notice as provided herein shall be given and a written Claim as specified in the Design-Build Documents shall be submitted. The Design-Builder's Claim shall include an estimate of any time and its effect on the progress of the Work. In the case of a continuing delay, only one Claim is necessary. If the delay was not caused by the Owner, the Design-Builder, or a Subcontractor of any tier, or anyone acting on behalf of any of them, the Design-Builder is entitled only to an increase in the Contract Time in accordance with the Design-Build Documents but not a change in the GMP. If the delay was caused by the Design-Builder, a Subcontractor of any tier, or anyone acting on behalf of any of them, the Design-Builder is not entitled to an increase in the Contract Time or in the GMP or Contract Sum. The Design-Builder is only entitled to an increase in the GMP for material delays that affect the critical path and are caused by the Owner; any adjustment in the Contract Time shall be limited to the change in the actual critical path of the Project directly caused thereby. The Claim shall include any proposed changes in the Design-Builder's Project schedule or the Contract Time, a description of any event that could delay performance or supplying of any item of the Work, the expected duration of the delay, the anticipated effect of the delay on the Design-Builder's Project schedule, and the action being taken to address the delay.

GC-4.1.7 Injury or Damage to Person or Property. If the Design-Builder suffers injury or damage to person or property because of an alleged act or omission of the Owner or of others for whose acts the Owner may be legally responsible, written notice of such injury or damage, whether or not insured, shall be given to the Owner within a reasonable time not exceeding twenty-one (21) days after discovery. The notice shall provide sufficient detail to enable the Owner to investigate the matter. This Section GC-4.1.7 does not apply to Claims, damages for additional costs, acceleration or delay.

GC-4.1.8 Unit Prices. If unit prices are stated in the Design-Build Documents or subsequently agreed upon, they shall be complete and include all materials, equipment, labor, delivery, installations, any overhead and profit in excess of the Fee set forth in the Agreement, and any other costs or expenses in connection with, or incidental to, the performance of that portion of the Work to which such unit prices apply. If quantities originally contemplated by a unit price are materially changed (e.g., more than fifty percent (50%)) in a Change Order or Construction Change Directive so that application of the unit price to quantities of Work will cause

substantial inequity to the Owner or Design-Builder, the applicable unit price but not the Contract Time may be equitably adjusted.

GC-4.1.9 Claims for Consequential Damages. The Design-Builder and the Owner waive Claims against each other for incidental, punitive, special and consequential damages arising out of or relating to the Design-Build Contract. This mutual waiver includes:

.1 damages incurred by the Owner for rental expenses, 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 Design-Builder for principal and home office overhead and expenses, including without limitation the compensation of personnel stationed there, for losses of financing, business and reputation, for losses on other projects, for loss of profit, and for interest or financing costs.

This mutual waiver is also applicable, without limitation, to all consequential damages due to either party's termination in accordance with Article GC-14. This waiver does not, however, limit the Design-Builder's obligation to indemnify the Owner for direct, indirect or consequential damages alleged by a third party.

Notwithstanding the forgoing, the Design-Builder shall be liable to the Owner for any liquidated damages specified in the Design-Build Contract.

GC-4.2 RESOLUTION OF CLAIMS AND DISPUTES

GC-4.2.1 In an effort to reduce the incidence and costs to all parties of extended disputes, all Claims, direct or indirect, arising out of, or relating to, the Design-Build Contract or the breach thereof, except claims which have been waived under the terms of the Design-Build Contract, shall be decided exclusively by the following alternative dispute resolution procedure unless the parties mutually agree in writing otherwise. To the extent that the Owner and Design-Builder agree to a partnering process to help resolve disputes, such process shall be in addition to, and not in place of, the mandatory dispute resolution procedures in the Design-Build Documents.

GC-4.2.2 Except for Claims requiring notice before proceeding with the affected Work as otherwise described in the Design-Build Documents, the Design-Builder shall submit a written notice of any Claim to the Owner within seven (7) days after the occurrence of the event giving rise to such Claim and shall include a clear description of the event and an estimate of the probable effects, if any, on the GMP, Contract Sum, and Contract Time. The Design-Builder shall then submit a written Claim as provided herein within thirty (30) days of submitting the notice. Claims shall include a clear description of the Claim, any proposed change to the GMP, Contract Sum (showing all components and calculations) and/or Contract Time (showing cause and analysis of the resultant delay in the critical path), and all data supporting the Claim, including without limitation a complete explanation as to why the relief sought is not within the scope of the Design-Build Documents. The Design-Builder may delay submitting data by fourteen (14) days if it notifies the Owner in its Claim that substantial data must be assembled. Failure to properly submit the notice or Claim shall constitute waiver of the Claim. The Claim shall be deemed to include all changes, direct and indirect, in cost and in time to which the Design-Builder (and Subcontractors of any tier) is entitled and may not contain reservations of rights without the Owner's written approval; any such unapproved reservations of rights shall be without effect. Any claim of a Subcontractor of any tier may be brought only through, and after review by, the Design-Builder. For the purposes of calculating such time periods, an "event giving rise to a Claim," among other things, is not a Request for Information but rather is a response that the Design-Builder believes would change the GMP, Contract Sum and/or Contract Time. An "event giving rise to a Claim" is not the date that a Subcontractor of any tier submits a notice of Claim to the Design-Builder or to a Subcontractor, but is the occurrence of the event which gave rise to that particular claim.

GC-4.2.3 All notices and Claims shall be made in writing as required by the Contract, and shall be addressed to the Owner's Designated Representative.

GC-4.2.4 All notices and Claims shall be made in writing as required by the Design-Build Contract. Any notice of a Claim of the Design-Builder against the Owner and any Claim of the Design-Builder, whether under the Design-Build Contract or otherwise, must be made pursuant to and in strict accordance with the applicable provisions of the Design-Build Contract. No act, omission, or knowledge, actual or constructive, of the Owner

shall in any way be deemed to be a waiver of the requirement for timely written notice and a timely written Claim unless the Owner and the Design-Builder sign an explicit, unequivocal written waiver approved by the Owner's Board of Directors. The fact that the Owner and the Design-Builder may consider, discuss, or negotiate a Claim that has or may have been defective or untimely under the Design-Build Contract shall not constitute a waiver of the provisions of the Design-Build Documents. The Design-Builder expressly acknowledges and agrees that the Design-Builder's failure to timely submit required notices and/or timely submit Claims has a substantial impact upon and prejudices the Owner, including but not limited to the inability to fully investigate or verify the Claim, mitigate damages, choose alternative options, adjust the budget, delete or modify the impacted Work, and/or monitor time, cost and quantities. For these and other reasons, the Design-Builder and Owner agree that the Owner is prejudiced by the Design-Builder's failure to timely submit notices and/or Claims and the Owner shall not be required to prove or establish actual prejudice to enforce the notice or Claim provisions of the Design-Build Contract.

GC-4.2.5 At any time following the Owner's receipt of the written Claim, the Owner may require that an officer of the Design-Builder and the Owner's Designated Representative (both with authority to settle) meet, confer, and attempt to resolve the Claim. If the Claim is not resolved during such meeting, the Design-Builder may bring no litigation against the Owner unless the Claim is first subject to nonbinding mediation as described in this Article. This requirement cannot be waived except by an explicit written waiver signed by the Owner and the Design-Builder.

GC-4.2.6 In the event of a Claim against the Design-Builder, the Owner may, but is not obligated to, notify the surety of the nature and amount of the Claim. If the Claim relates to a possibility of a Design-Builder's default, the Owner may, but is not obligated to, notify the surety and request the surety's assistance in resolving the controversy.

GC-4.2.7 In the event that Design-Builder disagrees with anything required by any written order provided by the Owner, including any direction, instruction, or determination by the Owner, then the Design-Builder must provide a signed written notice of protest to the Owner's Designated Representative within seven (7) days of the written order and shall supplement the written protest within fourteen (14) days with a written statement and supporting documents describing the Design-Builder's reason for its disagreement. By not timely protesting and providing the supplement, the Design-Builder completely waives any claims for additional entitlement regarding the written order and completely waives any right to dispute the written order.

GC-4.3 MEDIATION

GC-4.3.1 Claims, disputes, or other matters in controversy arising out of or related to the Design-Build Contract, except those waived, shall be subject to mediation as a condition precedent to the institution of legal or equitable proceedings by either party. This requirement cannot be waived except by an explicit written waiver by both parties. If legal or equitable proceedings are improperly filed before the mediation, it shall be dismissed without prejudice unless the litigation is to perfect lien rights or protect against a statute of limitations or a statute of repose, in which case the litigation shall be stayed pending completion of the mediation plus another thirty (30) days, unless stayed for a longer period by agreement of the parties or court order. If a Claim relates to or is the subject of a lien, the party asserting the Claim may proceed in accordance with applicable law to comply with the lien notice or filing deadlines prior to the mediation.

GC-4.3.2 The parties shall endeavor to resolve any Claims by mediation. A request for mediation shall be filed in writing with the other party to the Design-Build Contract, and the parties shall promptly attempt to mutually agree upon a mediator. If the parties have not reached agreement on a mediator within thirty (30) days of the request, either party may file the request with the American Arbitration Association or such other alternative dispute resolution service to which the parties mutually agree, with a copy to the other party, and the mediation shall then be administered by the American Arbitration Association (or other agreed service) in accordance with its Construction Industry Mediation Procedures then currently in effect. A request for mediation shall be made in writing and delivered to the other party to the Design-Build Contract. Mediation shall proceed in advance of binding dispute resolution proceedings, which shall be stayed pending the completion of mediation, unless stayed for a longer period by agreement of the parties or court order.

GC-4.3.3 The parties to the mediation shall share the mediator's fee and any filing fees equally. The mediation shall be held in Seattle, Washington, unless another location is mutually agreed upon. Agreements reached in mediation shall be enforceable as settlement agreements in any court having jurisdiction thereof.

GC-4.3.4 An officer of the Design-Builder and the Owner must attend the mediation session with authority to settle the Claim. To the extent there are other parties in interest, such as the Design-Builder's Engineer or Subcontractors of any tier, their representatives, also with authority to settle the Claim, shall also attend the mediation session. Unless the Owner and the Design-Builder mutually agree in writing otherwise, all unresolved Claims shall be considered at a single mediation session that shall occur after Substantial Completion but prior to Final Acceptance by the Owner.

GC-4.4 LITIGATION

GC-4.4.1 Litigation. The Design-Builder may bring no litigation on Claims unless such Claims have been properly raised and considered in the procedures of this Article GC-4. The Design-Builder shall have the burden to demonstrate in any litigation that it has complied with all requirements of this Article GC-4. All unresolved Claims of the Design-Builder shall be waived and released unless the Design-Builder has complied with the time limits of the Design-Build Documents, and litigation is served and filed within the earlier of (a) one hundred and twenty (120) days after the Date of Substantial Completion approved in writing by the Owner or (b) sixty (60) days after Final Acceptance. This requirement cannot be waived except by an explicit written waiver signed by the Owner and the Design-Builder. The pendency of mediation (the time period between receipt by the non-requesting party of a written mediation request and the date of mediation) shall toll these deadlines until the earlier of the mediator providing written notice to the parties of impasse or thirty (30) days after the date of the mediation session. Neither the Design-Builder nor a Subcontractor of any tier, whether claiming under a bond or lien statute or otherwise, shall be entitled to attorneys' fees directly or indirectly from the Owner (but may recover attorneys' fees from the bond or statutory retainage fund to the extent allowable under law).

GC-4.4.2 The Owner may join the Design-Builder as a party to any litigation or arbitration involving the alleged fault, responsibility, or breach of contract of the Design-Builder, Engineer, or a Subcontractor of any tier.

ARTICLE GC-5 SUBCONTRACTORS

GC-5.1 By appropriate agreement, written where legally required for validity, the Design-Builder shall require the Design-Builder's Engineer and each Subcontractor, to the extent of the Work to be performed by the Engineer or Subcontractor, to be bound to the Design-Builder by the terms of the Design-Build Documents, and to assume toward the Design-Builder all the obligations and responsibilities, including the responsibility for safety of the Subcontractor's Work, which the Design-Builder, by this Agreement, assumes toward the Owner. The Design-Builder shall provide to the Owner copies of the written agreements between the Design-Builder and the Engineer and any Subcontractor on request.

GC-5.2 The Design-Builder shall schedule, supervise and coordinate the operations of all Subcontractors of any tier, including any suppliers of early procurement items and any assigned Subcontractors. No subcontracting of any of the Work shall relieve the Design-Builder from its responsibility for the performance of the Work in accordance with the Design-Build Documents or from its responsibility for full performance of the obligations of the Design-Build Documents. The Design-Builder is responsible for the timely, accurate and appropriate coordination by Subcontractors of the Work of lower-tier Subcontractors in accordance with the overall Work, including communications, meetings, drawings, illustrations, and other necessary activities required for the successful coordination of all trades, schedules, materials and workmanship.

GC-5.3 The Design-Builder agrees to diligently, and using its best efforts, cause each Subcontractor of any tier to correct, at that Subcontractor's own expense, all Work performed by the Subcontractor of any tier that is defective in material or workmanship or that otherwise fails to conform to the Design-Build Documents, including all necessary removal, replacement and/or repair of any other portion of the Project which may be damaged in removing, replacing or repairing any portion of the Project. If a Subcontractor of any tier defaults in its obligation promptly to correct any such deficiency, the Design-Builder shall remain responsible for correcting the deficiency.

GC-5.4 The Design-Builder shall, and shall cause its Subcontractors of any tier to, give all required notices and comply with all applicable health and safety laws, rules, regulations, codes and lawful orders of public authorities and of quasi-governmental authorities relating to the Work, including without limitation all OSHA and State requirements, and the Design-Builder shall, and shall cause applicable Subcontractors of any tier to,

indemnify, defend and hold harmless the Owner from and against any and all claims, liabilities, fines and attorneys' fees arising from any failure of the Design-Builder or a Subcontractor of any tier to have complied with any such requirements in any respect.

GC-5.5 CONTINGENT ASSIGNMENT OF SUBCONTRACTS

GC-5.5.1 The Design-Builder assigns each agreement for a portion of the Work to the Owner, provided that the assignment is effective only after termination of the Design-Build Contract by the Owner for cause and only for those agreements which the Owner accepts by notifying the Design-Builder in writing. The assignment is also subject to the prior rights of the surety obligated under any bond relating to the Design-Build Documents. The Design-Builder shall remain responsible for payments to Subcontractors for Work and events occurring prior to the termination by the Owner and the Owner's acceptance of the assignment.

GC-5.6 LIENS

GC-5.6.1 The Design-Builder shall promptly pay (and secure the discharge of any liens asserted by) all persons properly furnishing labor, equipment, materials or other items in connection with the performance of the Work (including, but not limited to, Subcontractors of any tier) to the extent that the Owner has paid the Design-Builder for such. The Design-Builder shall provide to the Owner such releases of liens and claims and other documents as the Owner may request from time to time to evidence such payment (and discharge). The Owner may, at its option, withhold payment, in whole or in part, to the Design-Builder until such documents are provided. The Design-Builder may provide other security acceptable to the Owner, such as a bond, in lieu of paying disputed liens or claims.

GC-5.6.2 The Design-Builder shall defend, indemnify, and hold harmless the Owner from any liens, including all expenses and attorneys' fees, except to the extent a lien has been filed because of failure of payment by the Owner for the Work in any such lien.

GC-5.7 REPLACEMENT OR SUBSTITUTIONS OF SUBCONTRACTORS OF ANY TIER

GC-5.7.1 Unless otherwise stated in the Design-Build Documents or the Program requirements, the Design-Builder will, prior to execution of the GMP Amendment, provide in writing to the Owner the names of all additional persons or entities not originally included in the Design-Builder's Proposal or substitutes for a person or entity (including those who are to provide design services or materials or equipment fabricated to a special design) proposed for each principal portion of the Work (i.e., at least two percent of the GMP), as well as the proprietary names and suppliers of principal items or systems of the Work. The Design-Builder shall state the Work category followed by the name of the Subcontractor and/or fabricator (or "Design-Builder" where the portion of the Work is by the Design-Builder's own forces). The list shall be updated promptly as part of the payment process if additional Subcontractors of any tier are engaged. No progress payment will become due until this information is provided. The Owner will promptly reply to the Design-Builder in writing stating whether or not the Owner has reasonable objection to any such proposed Subcontractor or other proposed person or entity. If the Owner makes a "reasonable objection" (as defined in Section 5.7.2), the Design-Builder shall replace the proposed Subcontractor or other proposed person or entity without change to the GMP or Contract Time. Such replacement shall not relieve the Design-Builder of its responsibility for the performance of the Work and compliance with the other requirements of the Design-Build Contract.

GC-5.7.2 The Design-Builder shall not be required to contract with any person or entity to whom the Design-Builder objects. The Design-Builder shall also not contract with a proposed person or entity to which the Owner has made a reasonable and timely objection. As used in this Section GC-5.7, "reasonable objection" shall include but not be limited to:

- **.1** a proposed Subcontractor of any tier differing from the person or entity listed with the Proposal,
- **.2** lack of "responsibility" of the proposed Subcontractor, as defined in RCW 39.04.350, RCW 39.26.160(2), and/or the Design-Build Documents,
- **.3** lack of qualification as required by the Design-Build Documents, or
- **.4** material failure to perform (such as causing a material delay or submitting a claim that the Owner considers inappropriate) on one or more projects for the Owner within five (5) years of execution of the Design-Build Contract.

GC-5.7.3 If the Owner has an objection to a person or entity proposed by the Design-Builder, the Design-Builder shall propose another to whom the Owner has no reasonable objection. If the proposed but rejected

person or entity was qualified, responsible and reasonably capable of performing the Work, the GMP and Contract Time shall be increased or decreased by the difference, if any, occasioned by the replacement, and an appropriate Change Order shall be issued before commencement of the Work by the substitute person or entity. No increase in the GMP or Contract Time shall be allowed for such change unless the Design-Builder acted promptly and responsively in submitting qualified names as required, and no increase in the GMP or Contract Time shall be allowed for such change if the Owner reasonably objects. A replacement shall not relieve the Design-Builder of its responsibility for the performance of the Work or compliance the other requirements of the Contract.

GC-5.7.4 If the Owner reasonably concludes that any portion of the Work contracted by the Design-Builder is not being prosecuted in accordance with the Design-Build Documents, the Design-Builder shall, upon request of the Owner, remove the Subcontractor of any tier performing such Work. This removal shall not relieve the Design-Builder of its responsibility for the performance of the Work or complying with the other requirements of the Contract. The Owner shall not be obligated to request such a substitution.

ARTICLE GC-6 CONSTRUCTION BY THE OWNER OR BY SEPARATE CONTRACTORS

GC-6.1 THE OWNER'S RIGHT TO PERFORM CONSTRUCTION AND TO AWARD SEPARATE CONTRACTS

GC-6.1.1 The Owner reserves the right to perform construction or operations related to the Project with the Owner's own forces, and to award separate contracts in connection with other portions of the Project or other construction or operations on the site. The Design-Builder shall cooperate with the Owner and separate contractors whose work might interfere with the Design-Builder's Work. If the Design-Builder claims that delay or additional cost is involved because of such action by the Owner or separate contractor, the Design-Builder shall make such Claim as provided in Article GC-4, except that the Design-Builder shall have no claim for construction or operations to the extent disclosed in the Design-Build Documents.

GC-6.1.2 The term "separate contractor" shall mean any contractor retained by the Owner pursuant to this Article.

GC-6.1.3 The Owner shall provide for coordination of the activities of the Owner's own forces and of each separate contractor with the Work of the Design-Builder, who shall cooperate with them. The Design-Builder shall participate with other separate contractors and the Owner in reviewing and coordinating their schedules. The Design-Builder shall make any revisions to the Project schedule deemed necessary after a joint review and mutual agreement. The schedule shall then constitute the schedule to be used by the Design-Builder, separate contractors and the Owner until subsequently revised.

GC-6.2 MUTUAL RESPONSIBILITY

GC-6.2.1 The Design-Builder shall afford the Owner and separate contractors reasonable opportunity for introduction and storage of their materials and equipment and performance of their activities, and shall connect and coordinate the Design-Builder's construction and operations with theirs as required by the Design-Build Documents. If the Design-Builder receives items from a separate contractor or from the Owner for storage, erection or installation, the Design-Builder shall acknowledge receipt for items delivered, and thereafter will be held responsible for the care, storage and any necessary replacement of items received.

GC-6.2.2 If part of the Design-Builder's Work depends for proper execution or results upon design, construction or operations by the Owner or a separate contractor, the Design-Builder shall, prior to proceeding with that portion of the Work, promptly report to the Owner apparent discrepancies or defects in such other construction that would render it unsuitable for such proper execution and results. Failure of the Design-Builder to report shall constitute an acknowledgment that the Owner's or separate contractor's completed or partially completed construction is fit and proper to receive the Design-Builder's Work, except as to defects not then reasonably discoverable.

GC-6.2.3 The Owner shall be reimbursed and indemnified by the Design-Builder for costs incurred by the Owner that are payable to a separate contractor because of delays, improperly timed activities or defective construction of the Design-Builder. The Owner shall be responsible to the Design-Builder for costs incurred by the Design-Builder because of delays, improperly timed activities, damage to the Work or defective construction of a separate contractor. If such a separate contractor sues or initiates any proceeding against the Owner on account of any damages or delays alleged to have been caused by the Design-Builder, the Owner

shall notify the Design-Builder. The Design-Builder shall defend all such proceedings at its own expense, and shall defend, indemnify and hold the Owner harmless from any damages awarded on such claims, including all attorneys' fees and other costs incurred by the Owner.

GC-6.2.4 The Design-Builder shall promptly remedy damage caused by the Design-Builder to completed or partially completed construction or to property of the Owner or separate contractors.

GC-6.2.5 The Owner and each separate contractor shall have the same responsibilities for cutting and patching as are described for the Design-Builder in Article GC-3.

GC-6.2.6 Should the Design-Builder or any of its Subcontractors of any tier cause loss or damage of any kind, or cause any delay, to any other contractor on the Project, the Design-Builder shall, upon due notice, promptly attempt to settle with such other contractor by agreement or otherwise to resolve the dispute.

GC-6.3 OWNER'S RIGHT TO CLEAN UP

GC-6.3.1 If a dispute arises among the Design-Builder, separate contractors and the Owner as to the responsibility under their respective contracts for maintaining the premises and surrounding area free from waste materials and rubbish, the Owner may clean up and allocate the cost among those responsible.

ARTICLE GC-7 CHANGES IN THE WORK

GC-7.1 GENERAL

GC-7.1.1 Changes in the Work may be accomplished after execution of the Design-Build Contract, and without invalidating the Design-Build Contract, solely by Change Order (including Change Order proposals accepted in writing by the Owner), or Construction Change Directive or order for a Minor Change in the Work, subject to the limitations stated in this Article and elsewhere in the Design-Build Documents. A Change in the Work is a change in the scope of the Work described in the Design-Build Documents, which may involve a change in the GMP, Contract Sum and/or Contract Time if it is directed or approved by the Owner. A Minor Change in the Work does not involve adjustment in the GMP or Contract Sum, or an extension of the Contract Time, and is not inconsistent with the intent of the Design-Build Documents.

GC-7.1.2 Changes in the Work shall be performed under applicable provisions of the Design-Build Documents, and the Design-Builder shall proceed promptly, unless otherwise provided in the Change Order, accepted Change Order proposal, order for a Minor Change in the Work, or Construction Change Directive.

GC-7.2 CHANGE ORDERS

GC-7.2.1 A Change Order is a written instrument signed by the Owner and Design-Builder stating their agreement upon all of the following:

- **.1** the scope of a Change in the Work;
- **.2** the amount of the adjustment, if any, in the GMP and/or Contract Sum; and
- **.3** the extent of the adjustment, if any, in the Contract Time.

GC-7.2.2 A Change Order shall be based upon agreement between the Owner and Design-Builder. A Construction Change Directive may be issued by the Owner with or without agreement by the Design-Builder.

GC-7.3 CHANGE ORDER PROPOSALS

GC-7.3.1 Before effectuating a Change in the Work, the Owner may request that the Design-Builder, through a Change Order proposal, propose the amount of change in the GMP and/or Contract Sum, if any, and the extent of change in the Contract Time, if any, arising from the proposed Change in the Work. The Design-Builder shall submit its responsive proposal as soon as possible, and within seven (7) days of the Owner's request, and shall in good faith specify the components and amounts by which the GMP, Contract Sum and/or Contract Time would change. Labor, materials and equipment shall be limited to and itemized in the manner described in Section GC-7.6 for the Design-Builder and major Subcontractors. If the Design-Builder fails to respond within this time, the Owner may withhold some or all of a progress payment otherwise due until the tardy proposal is received.

GC-7.3.2 The Owner shall promptly review Change Order proposals. If the Owner explicitly accepts the proposal in writing, the Owner and the Design-Builder will be immediately bound to the terms of the proposal, the change will be included promptly in a future Change Order, and the change in the Work described in the

proposal shall commence expeditiously. If the Owner does not agree with the proposed change in the GMP, Contract Sum and/or Contract Time, the parties shall attempt to seek agreement, and the Design-Builder shall resubmit the proposal in the agreed amount. If the proposed changed Work has not yet been performed, the Owner may at any time direct that the change not be performed. If the parties are unable to agree on the change in the GMP, Contract Sum and/or Contract Time but the Owner directs the Design-Builder to continue with the changed Work (or if the changed Work is already complete), then the Design-Builder may submit a notice and Claim pursuant to Article GC-4 and the changed Work shall be priced pursuant to Section GC-7.6. The Owner may confer directly with Subcontractors of any tier concerning any item proposed to the Owner under this Article.

GC-7.3.3 The Design-Builder may initiate a Change Order proposal to document a proposed modification in the scope of the Work. A Change Order proposal is only to be utilized for proposed changes in the Work to be performed, not as a substitute for submitting a Claim or to track costs for Work already performed that the Design-Builder believes to be a change.

GC-7.3.4 The Design-Builder shall control and maintain the Change Order proposal numbering system and keep a log of issued proposals with related description and status information. A Change Order proposal may or may not result in a change in the GMP, Contract Sum and/or Contract Time.

GC-7.4 CONSTRUCTION CHANGE DIRECTIVES

GC-7.4.1 A Construction Change Directive is a written order signed by the Owner directing a Change in the Work prior to agreement on adjustment, if any, in the GMP, Contract Sum and/or Contract Time. The Owner may by Construction Change Directive, without invalidating the Design-Build Contract, order Changes in the Work within the general scope of the Design-Build Documents consisting of additions, deletions or other revisions, the GMP, Contract Sum, and/or Contract Time being adjusted accordingly. The Owner's use of Construction Change Directive does not constitute the Owner's agreement that the directive constitutes a change in the Work, the GMP, Contact Sum, and/or Contract Time.

GC-7.4.2 A Construction Change Directive shall be used in the absence of total agreement on the terms of a Change Order.

GC-7.4.3 If the Construction Change Directive provides for an adjustment to the GMP or Contract Sum, the adjustment shall be based on one of the following methods or as mutually agreed by the Owner and Design-Builder:

- **.1** mutual acceptance of a lump sum properly itemized and supported by sufficient substantiating data to permit evaluation;
- **.2** unit prices stated in the Design-Build Documents or subsequently agreed upon, or equitably adjusted as provided in Section GC-4.1.8;
- **.3** cost to be proposed by the Owner and determined in a manner agreed upon by the parties (with or without a cost limitation) and a mutually acceptable fixed or percentage fee; or
- **.4** as provided in Section GC-7.4.6.

GC-7.4.4 Upon receipt of a Construction Change Directive, the Design-Builder shall promptly proceed with the Change in the Work involved. As soon as possible, and within seven (7) days of receipt, the Design-Builder shall advise the Owner in writing of the Design-Builder's agreement or disagreement with the proposed adjustment or the method, if any, provided in the Construction Change Directive for determining the proposed adjustment in the GMP, Contract Sum and/or Contract Time. The Design-Builder's response shall reasonably specify the reasons for its disagreement and the adjustment or other terms that it proposes. Without such timely written response, the Design-Builder shall conclusively be deemed to have accepted the Owner's adjustment. The Design-Builder's disagreement shall not relieve the Design-Builder of its obligation to comply promptly with any written notice issued by the Owner. The adjustment shall then be determined by the Owner in accordance with the provisions of the Design-Build Documents.

GC-7.4.5 A Construction Change Directive signed by the Design-Builder indicates the agreement of the Design-Builder therewith, including any adjustment in the GMP, Contract Sum and/or Contract Time or the method for determining them. Such agreement shall be effective immediately and shall be incorporated into a Change Order.

GC-7.4.6 If the Design-Builder does not respond promptly or disagrees with the method for adjustment in the GMP and/or Contract Sum, or if the cost is to be determined under Section GC-7.4.3.3, the Design-Builder shall keep and present, itemized in the categories of Section GC-7.6 and in such form as the 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, which shall be itemized in the manner described in Section GC-7.6. 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 twenty-one (21) days of the Owner's request shall constitute waiver of any Claim for changes in the Contract Time, GMP, or Contract Sum. The total cost of any change, including a Claim under Article GC-4, shall be limited to the reasonable value, as determined by the Owner (subject to appeal through the dispute resolution procedure of Article GC-4), of the items in Section GC-7.6. 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. The Owner may communicate directly with Subcontractors of any tier concerning costs of any Work included in a Construction Change Directive.

GC-7.4.7 The amount of credit to be allowed by the Design-Builder to the Owner for a deletion or change that results in a net decrease in the GMP shall be the larger of (i) the reasonable and prevailing value of the deletion or change, (ii) the line item value in the schedule of values, or (iii) the actual net cost as confirmed by the Owner. When both additions and credits covering Work or substitutions are involved in a change, the fee for overhead and profit shall be figured on the basis of net increase, if any, with respect to that change.

GC-7.4.8 Pending final determination of the total cost to the Owner of a Construction Change Directive, and provided that the Work to be performed under the Construction Change Directive is complete and any reservations of rights regarding the Construction Change Directive have been approved in writing by the Owner, the Design-Builder may request payment for amounts not in dispute in Applications for Payment accompanied by a Change Order indicating the parties' agreement with part or all of such costs.

GC-7.4.9 If the Design-Builder disagrees with the method or the adjustment in the Contract Time, the adjustment or method shall be referred to the Owner for determination, and any adjustment shall be limited to the change in the actual critical path of the Design-Builder's Project schedule directly caused thereby. Any adjustment in the Contract Time arising from a Change or a Claim shall be limited to the change in the actual critical path of the Design-Builder's Project schedule directly caused thereby.

GC-7.4.10 When the Owner and Design-Builder reach agreement concerning the adjustments in the GMP, Contract Sum and/or Contract Time, or otherwise reach agreement upon the adjustments, such agreement shall be effective immediately and shall be recorded by preparation and execution of an appropriate Change Order.

GC-7.5 MINOR CHANGES IN THE WORK

GC-7.5.1 The Owner shall be entitled to order Minor Changes in the Work (sometimes called a Design Clarification) not involving adjustment in the GMP or Contract Sum or an extension of the Contract Time and not inconsistent with the intent of the Design-Builder Documents. Such changes will be effected by written order such as a Design Clarification or a Field Authorization and shall be binding on the Design-Builder. The Design-Builder shall carry out such written orders promptly. If the Design-Builder believes that such order causes an increase in the GMP, Contract Sum and/or Contract Time, the Design-Builder must properly submit a notice and Claim.

GC-7.6 PRICING COMPONENTS

For the Design-Builder, the value of any changed Work or of any Claim for an increase or decrease in the GMP or Contract Sum shall be limited to the Cost of the Work and the Fee set forth in the Agreement. For Subcontractors of any tier, the total cost of any changed Work or of any other increase or decrease in the GMP or Contract Sum, including a Claim, shall be limited to the following components:

GC-7.6.1 Direct labor costs: These are the actual labor costs determined by the number of additional craft hours and the hourly costs necessary for the Subcontractor to perform the Change in the Work. The hourly cost shall be based upon the following:

.1 Basic wages and fringe benefits: The hourly wage (without markup or labor burden) and fringe benefits paid by the Design-Builder 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 the Owner. Costs paid or incurred by the Design-Builder for vacations, per diem, subsistence, housing, travel, bonuses, stock options, or discretionary payments to employees are not separately reimbursable. The Subcontractors shall provide to the Owner copies of payroll records, including certified payroll statements upon the Owner's request.

.2 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.

.3 Federal insurances: Direct contributions required by the Federal Insurance Compensation Act (FICA); Federal Unemployment Tax Act (FUTA); and State Unemployment Compensation Act (SUCA).

GC-7.6.2 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 the Owner. Discounts and rebates based on prompt payment need not be included, however, if the Design-Builder offered but the Owner declined the opportunity to take advantage of such discount or rebate.

GC-7.6.3 Construction equipment usage costs: This is an itemization of the actual length of time that construction equipment necessary and appropriate for the Work is used solely on the change 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 EquipmentWatch, Atlanta, Georgia, as modified by the latest edition of the AGC/WSDOT agreement, or the actual rate paid to an unrelated third party as evidenced by rental receipts. Actual, reasonable mobilization costs are permitted if the equipment is brought to the site solely for the change in the Work. Mobilization and standby costs shall not be charged for equipment already present on the site. If more than one rate is applicable, the lowest rate will be utilized. The rates in effect at the time of the performance of the change are the maximum rates allowable for equipment of modern design and in good working condition and include full compensation for providing all fuel, oil, lubrication, repairs, maintenance, and insurance. No gas surcharges shall be charged. 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. The rate for equipment necessarily standing by for future use (and standing by for longer than one (1) week) on the changed Work shall be fifty percent (50%) of the rate established above. The total cost of rental allowed shall not exceed the cost of purchasing the equipment outright. 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 the Owner prior to performing the Work.

GC-7.6.4 Costs of Lower-Tier Subcontractors: These are payments a Subcontractor makes to lower-tier Subcontractors for changed Work performed by such lower-tier Subcontractors. Such Subcontractors' cost of changed Work shall be determined in the same manner as prescribed in this Section GC-7.6.

GC-7.6.5 Subcontractor's Fee: This is the percentage amount for all combined overhead, profit and other costs, including all office, home office and site overhead (including project manager, project engineer, other engineers, project foreman, estimator, superintendent and their vehicles and clerical assistants), taxes (except for sales tax), employee per diem, subsistence and travel costs, warranty, safety costs, printing and copying, layout and control, quality control/assurance, purchasing, small or hand tool (a tool that costs $500 or less and is normally provided by the performing contractor) or expendable charges, preparation of as-built drawings, impact on unchanged Work, Claim and Change preparation, and delay and impact costs of any kind (cumulative, ripple, or otherwise), added to the total cost to the Owner of any Change Order, Construction Change Directive, Claim or any other claim of any kind on this Project. No Fee shall be due, however, for direct settlements of Subcontractor claims by the Owner after Substantial Completion. The Fee shall be limited in all cases to the following schedule:

.1 A Subcontractor of any tier shall receive 12% of the cost of any materials supplied or work properly performed by that Subcontractor's own forces.

.2 A Subcontractor of any tier shall receive 8% of the amount owed (less fee) directly to a lower-tier Subcontractor or supplier for materials supplied or for work properly performed by that Subcontractor or supplier.

.3 A Subcontractor of any tier shall receive no more than 5% of any amounts owed (less fee) to any remote, sub-tier subcontractors which are within the lines of contractual responsibility but not in privity of contract with such Subcontractor, for work performed by that remote, sub-tier subcontractor.

.4 The cost to which this Fee is to be applied shall be determined in accordance with Sections GC-7.6.1 through GC-7.6.4. None of the fee percentages authorized in this Section GC-7.6.5 may be compounded with any other fee percentage or percentages authorized in this paragraph.

.5 The total summed Fee of the first-tier Subcontractor and all lower-tier Subcontractors shall not exceed 25%. If the Fee would otherwise exceed 25%, the Design-Builder shall proportionately reduce the Fee percentage for the Design-Builder and all Subcontractors except for the Subcontractor supplying material or performing work with its own forces. None of the fee percentages authorized in this Section 7.6.5 may be compounded with any other fee percentage or percentages authorized in this Section.

If a change in the Work involves both additive and deductive items, the appropriate Fee allowed will be added to the net difference of the items. If the net difference is negative, no Fee will be added to the negative figure as a further deduction. The parties acknowledge that the fees listed in this Section GC-7.6.5 are higher than the fees and overhead normally included in determining the Subcontractor's subcontract price; that these higher percentages are a sufficient amount to compensate the Subcontractor for all effects and impacts of Changes in the Work; and that the resultant overcompensation of the Subcontractor for some Changes compensates the Subcontractor for any Changes for which the Subcontractor believes the percentage is otherwise insufficient.

GC-7.6.6 Cost of change in insurance or bond premium. This is added to the sum of the amounts specified in Sections GC-7.6.1 through GC-7.6.5 and is defined as:

.1 Subcontractors' liability insurance: The actual cost (expressed as a percentage submitted with the certificate of insurance and subject to audit) of any changes in the Subcontractor's liability insurance arising directly from the changed Work; and

.2 Public works bond: The actual cost (expressed as a percentage submitted with evidence of bondability and subject to audit) of the change in the Subcontractor's premium for any statutorily or contractually required performance and payment bond arising directly from the changed Work.

Upon request, the Subcontractor shall provide the Owner with supporting documentation from its insurer or surety of any claimed cost.

GC-7.6.7 The costs reimbursable to Design-Builder and Subcontractors of any tier may not include, among other things, consultant costs, attorneys' fees, or Claim preparation expenses as such matters are not recoverable from the Owner.

ARTICLE GC-8 TIME

GC-8.1 DEFINITIONS

GC-8.1.1 Unless otherwise provided, Contract Time is the period of time, including authorized adjustments, allotted in the Design-Build Documents for Substantial Completion of the Work.

GC-8.1.2 Within seven (7) days after execution of the Agreement, the Design-Builder shall submit certificates of insurance and all other documents required by the Design-Build Documents. The date of commencement of the Work shall be the date stated in the Agreement unless provision is made for the date to be fixed in a notice to proceed issued by the Owner. Work on the site may begin when applicable permits have been issued and the Design-Builder complies with the requirements of the notice to proceed.

GC-8.1.3 The date of Substantial Completion (or a designated portion thereof) is the date determined by the Owner in accordance with the Design-Build Documents.

GC-8.1.4 The term "day" as used in the Design-Build Documents shall mean calendar day unless otherwise specifically defined.

GC-8.2 PROGRESS AND COMPLETION

GC-8.2.1 Time limits stated in the Design-Build Documents are of the essence of the Design-Build Contract. By executing the GMP Amendment, the Design-Builder confirms that the Contract Time is a reasonable period for performing the Work.

GC-8.2.2 The Design-Builder shall not knowingly, except by agreement or instruction of the Owner in writing, prematurely commence construction operations on the site or elsewhere prior to the effective date of insurance required by the Design-Build Documents to be provided by the Design-Builder and Owner. The date of commencement of the Work shall not be changed by the effective date of such insurance. Unless the date of commencement is established by the Design-Build Documents or a notice to proceed given by the Owner, the Design-Builder shall notify the Owner in writing before commencing construction.

GC-8.2.3 The Design-Builder shall proceed expeditiously and with adequate forces to achieve Substantial Completion within the Contract Time and Final Completion within thirty (30) days thereafter.

GC-8.2.4 THE TIMELY COMPLETION OF THIS PROJECT IS ESSENTIAL TO THE OWNER. The 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 amount of such damages, which could include, for example, personnel and overtime costs, transportation costs, governmental fees, storage costs, portable rental costs, loss of use, and lost opportunities. Consequently, provisions for liquidated damages as a reasonable estimate of loss are included in the Design-Build Documents. The Owner's right to liquidated damages is not affected by partial completion, occupancy, or beneficial occupancy. The Design-Builder shall provide sufficient forces, construction plant and equipment, and shall work such hours, including night shifts, overtime operations and weekend and holiday work as may be necessary to insure the production of the Work in accordance with the date of Substantial Completion and the approved Project schedule. If the Design-Builder fails to perform in a timely manner in accordance with the Design-Build Documents and, through the fault of the Design-Builder or Subcontractor(s) of any tier fails to meet or maintain the Project schedule, the Design-Builder shall take such steps as may be necessary to immediately improve its progress by increasing the number of workers, shifts, overtime operations or days of work or other means and methods, all without additional cost to the Owner.

GC-8.2.5 Any provisions in the Contract for liquidated damages shall not relieve or release the Design-Builder from liability for any and all damages suffered by the Owner due to other breaches of the Contract or suffered by separate contractors.

GC-8.3 DELAYS AND EXTENSIONS OF TIME

GC-8.3.1 If the Design-Builder is delayed at any time in the commencement or progress of the Work (1) by an act or neglect of the Owner or of a separate contractor employed by the Owner, (2) by changes ordered in the Work only to the extent reflected in approved Change Orders providing for specific extensions of the Contract Time, (3) by unanticipated, abnormal weather (see Section GC-8.3.4), (4) by fire, unusual and unanticipated governmental delays (including permit delays not caused by the Owner), unavoidable casualties or other causes beyond the Design-Builder's control, (5) by delay authorized by the Owner pending mediation and litigation, or (6) by other causes that the Owner determines may justify delay, then the Contract Time shall be extended by Change Order for a reasonable time as determined by the actual change to the critical path of the Project schedule directly caused by the delay event. In no event, however, shall the Design-Builder be entitled to any extension of time absent proof of (1) delay to an activity on the critical path of the Project schedule, so as to actually delay the Project completion beyond the date of Substantial Completion or (2) delay transforming an activity into the critical path of the Project schedule, so as to actually delay the Project completion beyond the date of Substantial Completion.

GC-8.3.2 Claims relating to time shall be made in accordance with the provisions of Article GC-4. That the Owner may be aware of the occurrence or existence of a delay through means other than the Design-Builder's written notification shall not constitute a waiver of the requirement that the Design-Builder provide timely and written notice and/or Claim.

GC-8.3.3 This Section GC-8.3 does not preclude recovery of damages for delay by either party under other provisions of the Design-Build Documents.

.1 If the delay was not caused by the Owner, the Design-Builder, a Subcontractor of any tier, or the Engineer, or anyone acting on behalf of any of them, the Design-Builder is entitled only to an increase in the Contract Time in accordance with the Design-Build Documents but not an increase in the GMP. If the delay was caused by the Design-Builder, a Subcontractor of any tier, or anyone acting on behalf of any of them, the Design-Builder is not entitled to an increase in the Contract Time or in the GMP. The Design-Builder shall be entitled to a change in the GMP only if the delay was caused by the Owner or anyone acting on behalf of it. The Design-Builder shall not recover damages, an equitable adjustment or an increase in the GMP or Contract Time from the Owner where the Design-Builder could have reasonably avoided the delay by the exercise of due diligence. The Design-Builder shall be able to recover an increase in the GMP, provided it is consistent with the terms of the Design-Build Documents, only if the delay was in the critical path, could not have reasonably been avoided, was unreasonable and was caused by the Owner or anyone acting on its behalf as permitted under the Design-Build Documents. The Owner is not obligated directly or indirectly for damages, an equitable adjustment, or an increase in the GMP for any delay suffered by a Subcontractor of any tier that does not increase the Contract Time.

.2 In the event the Design-Builder is held to be entitled to damages from the Owner for delay beyond the payment permitted in Section GC-7.6.5, it is agreed that the total combined damages awardable against the Owner for each day of delay shall be limited to the original Design-Builder's general conditions costs divided by the total number of days of Contract Time. For any impact and delay costs to Subcontractors for which the Owner is responsible under the Design-Build Documents, damages awardable against the Owner shall be limited to the Subcontractor's project management, superintendence and administrative staff located and working directly at the Project site and only for the extended duration that such staff are required to work beyond the original required date of Substantial Completion and ending no later than the date at which Substantial Completion is achieved, with no Subcontractor Fee or overhead added to such costs. By submitting its proposal and by signing the GMP Amendment, the Design-Builder represents that it would be difficult if not impossible to determine the amount of any delay damages due it, that it has taken this provision for liquidated damages into consideration in its bid, and that these liquidated damages are a reasonable estimate of its loss. No damages will be allowed for any time prior to seven (7) days before receipt of written notice of the Claim of the delay pursuant to Article 4.

.3 The Design-Builder shall not in any event be entitled to damages arising out of actual or alleged loss of efficiency; morale, fatigue, attitude, or labor rhythm; constructive acceleration; home office overhead; expectant underrun; trade stacking; reassignment of workers; rescheduling of work, schedule compression; concurrent operations; dilution of supervision; learning curve; beneficial or joint occupancy; logistics; ripple; season change; extended or expanded overhead or general conditions; profit upon damages for delay; impact damages; cumulative impacts; or similar damages. Any effect that such alleged costs may have upon the Design-Builder or its Subcontractors of any tier is fully compensated through the percentage Fee on Change Orders paid through Section 7.5.6 and any delay damages paid hereunder.

.4 The Design-Builder shall not be entitled to any adjustment in the Contract Time or the GMP, or to any additional payment of any sort, by reason of the loss or the use of any float time, including time not on the critical path or time between the Design-Builder's anticipated completion date and the end of the Contract Time, whether or not the float time is described as such on the Design-Builder's Construction Schedule.

GC-8.3.4 If adverse weather conditions are the basis for a Claim for additional time, such Claim shall be documented by data substantiating that weather conditions were abnormal for the period of time, could not have been reasonably anticipated at the time of setting the GMP and had an adverse effect on the scheduled construction, and that the Work was on schedule (or not behind schedule through the fault of the Design-Builder) at the time the adverse weather conditions occurred. Neither the Contract Time nor the GMP will be adjusted for normal inclement weather. The Design-Builder shall be entitled to a change in the Contract Time only (but not a change in the GMP) if the Design-Builder can substantiate to the reasonable satisfaction of the Owner that there was materially greater than normal inclement weather considering the full term of the Contract Time and using a ten-year average of accumulated record mean values from climatological data compiled by the U.S. Department of Commerce National Oceanic and Atmospheric Administration for the locale closest to

the Project, and that the alleged abnormal inclement weather actually extended the critical path of the Work. The change in Contract Time shall be provisional until Substantial Completion has been achieved, at which time the change in the Contract Time shall be the extent to which the total net accumulated number of calendar days lost due to inclement weather from commencement of the Work until Substantial Completion exceeds the total net accumulated number to be expected for the same period from the aforesaid data.

ARTICLE GC-9 PAYMENTS AND COMPLETION

GC-9.1 CONTRACT SUM

GC-9.1.1 The Contract Sum is stated in the Design-Build Documents and, including authorized adjustments, is the total amount payable by the Owner to the Design-Builder for performance of the Work under the Design-Build Documents. The Contract Sum to be paid by the Owner shall not exceed the GMP.

GC-9.2 SCHEDULE OF VALUES

GC-9.2.1 At least fourteen (14) days before the first Application for Payment, the Design-Builder shall submit to the Owner an initial schedule of values allocated to various portions of the Work prepared in such form and supported by such data to substantiate its accuracy as the Owner may require. At a minimum, the Work shall be itemized by section or system; separate values for design, labor, materials and equipment shall be provided; and line items on the schedule of values shall be tied to the Design-Builder's Project schedule. Quantities shall be provided for each section or system of the Work. If an example of the schedule of values is included in the Design-Build Documents, the Design-Builder shall itemize and prepare the schedule of values as indicated by the example with respect to form, content, and level of detail. This schedule, unless objected to by the Owner, shall be used as a basis for reviewing the Design-Builder's Applications for Payment. The schedule of values may be updated periodically to reflect changes in the allocation of the estimated Contract Sum.

- **.1** Mobilization shall be a maximum of one-half of one percent (0.5%) of the GMP, and shall be paid only if supported by an itemized breakdown of costs acceptable to the Owner.
- **.2** Payment applicable to the expenses of Design-Builder's bond and/or any contractually required builder's risk insurance will be made only upon receipt of paid invoices from surety and/or insurance carrier.
- **.3** No payment will be made for shop drawings or submittals until on-site receipt of materials, except for structural steel, fire sprinkler, automatic temperature control, and fire alarm shop drawings that have been reviewed and accepted by the Owner.
- **.4** The schedule of values shall allocate at least one percent (1%) of the GMP to Commissioning of Operational Systems, as defined in the Design-Build Documents.
- **.5** The schedule of values shall allocate at least one percent (1%) of the GMP for completion of punchlist items.
- **.6** The schedule of values shall allocate at least one half percent (.5%) of the GMP for completion of approved operations and maintenance data and the delivery of warranties.
- **.7** The schedule of values shall allocate at least one half percent (.5%) of the GMP for completion of record drawings, delivery of extra stock, and all other documentation or items of the Work required for Final Completion of the entire Project.
- **.8** None of the percentages in this Section 9.2.1 are the statutory retainage described in Section 9.3.4 or any other retainage from amounts earned, but rather this allocation requires the Design-Builder to recognize that the Design-Builder and its Subcontractors will expend significant costs in advancing the line item of the Work from Substantial Completion to Final Completion. These amounts are not earned until Final Completion is accomplished, respectively, for a line item or the Work as a whole. At its sole discretion, the Owner may release portions of this amount progressively as items are completed.
- **.9** Itemize separately line item costs for permits, bonds, insurance, layout and supervision, scheduling, and temporary facilities.

GC-9.3 APPLICATIONS FOR PAYMENT

GC-9.3.1 Progress payments will be made monthly for Work duly approved and performed during the calendar month preceding the application. These amounts are paid in trust to the Design-Builder for distribution to Subcontractors to the extent and in accordance with the approved Application for Payment.

GC-9.3.2 PAYMENT REQUESTS

GC-9.3.2.1 Draft Application. At the last scheduled weekly meeting of each month, the Design-Builder shall submit to the Owner the reports required in Section 2.3 and draft, itemized applications for payment for Work

performed during that calendar month on a form supplied or approved by the Owner. This shall not constitute a payment request. The Design-Builder and the Owner shall confer prior to the last working day of the month regarding the current progress of the Work and the amount of payment to which the Design-Builder is entitled. The Owner may request the Design-Builder to provide data substantiating the Design-Builder's right to payment as the Owner may require, such as copies of invoices from Subcontractors of any tier, lien releases and certified payrolls, and reflecting retainage as provided elsewhere in the Design-Build Documents. The Design-Builder shall not be entitled to make a payment request, nor is any payment due the Design-Builder, until such data is furnished.

GC-9.3.2.2 Payment Request. After the Design-Builder and the Owner have met and conferred regarding the updated draft applications, and the Design-Builder has furnished all progress information required and all data requested by the Owner, the Design-Builder may submit a payment request by the last working day of the month following the meeting in the agreed-upon amount, in the form of a notarized, itemized Application for Payment for Work properly performed during that calendar month on a form supplied or approved by the Owner, along with a lien release on a form furnished by the Owner from each Subcontractor for whose Work the Owner paid the Design-Builder for the prior month. The Applications shall also state that prevailing wages have been paid in accordance with the prefiled statements of intent to pay prevailing wages on file with the Owner and that all payments due Subcontractors of any tier from the Owner's payment the prior month have been made. Any payment request shall not be valid unless it complies with the requirements of the Design-Build Documents. The submission of this Application constitutes a certification that the Work is current on the Design-Builder's Construction Schedule, unless otherwise noted on the Application.

GC-9.3.2.3 Disputed Amounts. If the Design-Builder believes it is entitled to payment for Work performed during the prior calendar month in addition to the agreed-upon amount, the Design-Builder may, also by the tenth (10th) day of the month, submit to the Owner along with the approved payment request a separate written payment request specifying the exact additional amount due, the category in the schedule of values in which the payment is due, the specific Work for which the additional amount is due, and why the additional payment is due. Furthermore, for the submittal to be considered, the Design-Builder and all Subcontractors shall file with the Owner by the same date certified copies of all payroll records pursuant to WAC 296-127-320 relating to the additional amount claimed due.

GC-9.3.2.4 Validity of Payment Requests. A payment request shall not be valid unless it complies with the requirements of the Design-Build Documents. If a separate payment request concerning a disputed amount does not comply with the requirements of the Contract, the Owner will provide a written statement to the Design-Builder.

GC-9.3.2.5 The Application shall state that all payments due Subcontractors of any tier from the Owner's prior payment have been made. No payment request shall include amounts the Design-Builder does not intend to pay to a Subcontractor because of a dispute or other reason. If, after making a request for payment but before paying a Subcontractor for its performance covered by the payment request, the Design-Builder discovers that part or all of the payment otherwise due to the Subcontractor is subject to withholding from the Subcontractor under the subcontract (such as for unsatisfactory performance or non-payment of lower tier Subcontractors), the Design-Builder may withhold the amount as allowed under the subcontract, but it shall give the Subcontractor and the Owner written notice of the remedial actions that must be taken as soon as practicable after determining the cause for the withholding but before the due date for payment to the Subcontractor, and pay the Subcontractor within eight (8) working days after the Subcontractor satisfactorily completes the remedial action identified in the notice.

GC-9.3.2.6 Unless otherwise provided in the Design-Build Documents, payments shall be made on account of Project-specific materials and equipment delivered and suitably stored at the site for subsequent incorporation in the Work. If approved in writing and in advance by the Owner, payment may similarly be made for materials and equipment suitably stored off the site at a location agreed upon in writing. Payment for materials and equipment stored on or off the site shall be conditioned upon compliance by the Design-Builder with procedures satisfactory to the Owner to establish the Owner's title to such materials and equipment and otherwise to protect the Owner's interest, and shall include the costs of applicable insurance, storage and transportation to the site.

GC-9.3.3 The Design-Builder warrants that title to all Work covered by an Application for Payment will pass to the Owner no later than the time of payment. The Design-Builder further warrants that, upon submittal of an Application for Payment, all Work for which Applications for Payment have been previously issued and payments received from the Owner shall, to the best of the Design-Builder's knowledge, information and belief, be free and clear of liens, claims, security interests or encumbrances in favor of the Design-Builder, Subcontractors of any tier, material suppliers, or other persons or entities making a claim by reason of having provided labor, materials and equipment relating to the Work.

GC-9.3.4 Retainage.
GC-9.3.4.1 In accordance with RCW 60.28, a sum equal to five percent (5%) of each approved Application for Payment shall be retained. The Design-Builder shall exercise, in writing, one of the options listed below:

- **.1** Retained percentages will be retained in a fund by the Owner not subject to release until sixty (60) days following the Final Acceptance of the Work as completed; or
- **.2** Deposited by the Owner in an interest-bearing account in a bank, mutual savings bank or savings and loan association and not subject to release until sixty (60) days following Final Acceptance of the Work as completed; or
- **.3** Placed in escrow with a bank or trust company and not subject to release until sixty (60) days following the Final Acceptance of the Work as completed.

If the Design-Builder provides a bond in place of retainage, it shall be in an amount equal to five percent (5%) of the estimated Contract Sum plus Change Orders. The minimum requirements for the bond are that it must be on a form acceptable to the Owner, with an A.M. Best rating of "A minus" or better and a financial rating of no less than "IX," signed by a surety registered by the Washington State Insurance Commissioner and on the currently authorized insurance list published by the Washington State Insurance Commissioner; additional requirements as established by the Owner may be applied. The cost of any retainage bond is not reimbursable as such bonds are not required.

GC-9.3.4.2 The Design-Builder or a Subcontractor of any tier may withhold payment of not more than five percent (5%) as retainage from the monies earned by any Subcontractor or Subcontractor of any tier, provided that the Design-Builder pays interest to the Subcontractor at the same interest rate it receives, if any, from its reserved funds. If requested by the Owner, the Design-Builder shall specify the amount of retainage and interest due a Subcontractor.

GC-9.4 ACKNOWLEDGEMENT OF APPLICATION FOR PAYMENT
GC-9.4.1 The Owner shall, within seven (7) days after receipt of the Design-Builder's Application for Payment, acknowledge to the Design-Builder receipt of the Design-Builder's Application for Payment indicating the amount the Owner has determined to be properly due and, if applicable, the reasons for withholding payment in whole or in part.

GC-9.5 DECISIONS TO WITHHOLD PAYMENT
GC-9.5.1 The Owner may withhold a payment in whole or in part to the extent reasonably necessary to protect the Owner due to the Owner's determination that the Work has not progressed to the point indicated in the Application for Payment or that the quality of Work is not in accordance with the Design-Build Documents. The Owner may also withhold a payment or, because of subsequently discovered evidence or subsequent observations, may nullify the whole or a part of an Application for Payment previously issued to such extent as may be necessary to protect the Owner from loss for which the Design-Builder is responsible, including but not limited to loss resulting from acts and omissions, because of the following:

- **.1** defective Work not remedied;
- **.2** third-party claims (except where an insurer has unconditionally accepted coverage) filed or reasonable evidence indicating probable filing of such claims unless security acceptable to the Owner is provided by the Design-Builder;
- **.3** failure of the Design-Builder to make payments properly to Subcontractors or for design services labor, materials or equipment, or for failure of such Subcontractors to make payments properly to Subcontractors of any tier;
- **.4** reasonable evidence that the Work cannot be completed for the unpaid balance of the GMP;
- **.5** damage to the Owner or a separate contractor (except where an insurer has unconditionally accepted coverage);

.6 reasonable evidence that the Work will not be completed within the Contract Time and that the unpaid balance would not be adequate to cover actual or liquidated damages for the anticipated delay;
.7 unsatisfactory prosecution of the Work by the Design-Builder, including but not limited to failure to carry out the Work in accordance with the Design-Build Documents;
.8 delay by the Design-Builder and/or its Subcontractor(s) of any tier, or failure to comply with the Design-Builder's Project schedule requirements, or the imposition of liquidated damages;
.9 failure to submit any documents required by statute;
.10 failure to submit a properly updated Project schedule;
.11 failure to comply with a requirement of the Design-Build Documents in which the Owner has reserved the right to withhold payment;
.12 damages for failure to meet timely and proper completion of the Contract, including the assessment of liquidated damages;
.13 failure to properly maintain as-built records;
.14 failure to properly submit daily construction records; or
.15 failure to properly submit certified payrolls.

GC-9.5.2 When the above reasons for withholding payment are removed, payment will be made for amounts previously withheld.

GC-9.5.3 Pursuant to RCW 39.12, "Prevailing Wages on Public Works," the Design-Builder will not receive any payment until the Design-Builder and all Subcontractors of any tier for whom payment is sought have submitted State-approved "Statements of Intent to Pay Prevailing Wage" to the Owner. The statement must have the approval of the Industrial Statistician of the Department of Labor and Industries before it is submitted to the Owner. The statement must include the Design-Builder's registration number, the number of workers in each trade classification, and the applicable wage rate for each trade listed. The Design-Builder agrees to provide each Subcontractor of any tier with a schedule of applicable prevailing wage rates. The Design-Builder and the respective Subcontractors of any tier shall pay all fees required by the Department of Labor and Industries, including fees for the approval of the "Statement of Intent to Pay Prevailing Wages." Approved copies of the "Statement of Intent to Pay Prevailing Wages" must be posted where workers can easily read them.

GC-9.6 PROGRESS PAYMENTS

GC-9.6.1 After the Owner has issued a written acknowledgement of receipt of the Design-Builder's Application for Payment, and it has been approved by the Owner, the Owner shall make payment of the approved amount within thirty (30) days of its receipt and approval of the Design-Builder's Application for Payment. The Owner shall be entitled to withhold payment to the extent provided by the Design-Build Documents, notwithstanding the issuance of an acknowledgement of Application for Payment.

GC-9.6.2 The Design-Builder shall promptly pay the Design-Builder's Engineer, each design professional and other consultants retained directly by the Design-Builder, upon receipt of payment from the Owner, out of the amount paid to the Design-Builder on account of each such party's respective portion of the Work, the amount to which each such party is entitled. If the Design-Builder does not receive payment for any cause that is not the fault of the Design-Builder's Engineer, a design professional and other particular consultant but does receive payment for services performed by that entity, the Design-Builder shall pay that entity in accordance with its contract for its satisfactorily completed services, less the retained percentage.

GC-9.6.3 The Design-Builder shall promptly pay each Subcontractor, upon receipt of payment from the Owner, out of the amount paid to the Design-Builder on account of such Subcontractor's portion of the Work, the amount to which the Subcontractor is entitled, reflecting percentages actually retained from payments to the Design-Builder on account of the Subcontractor's portion of the Work. The Design-Builder shall, by appropriate agreement with each Subcontractor, require each Subcontractor to make payments to Subcontractors in a similar manner. If the Design-Builder does not receive payment for any cause that is not the fault of a particular Subcontractor but does receive payment for materials supplied or Work performed by that Subcontractor, the Design-Builder shall pay that Subcontractor in accordance with its subcontract for its satisfactorily completed Work, less the retained percentage. The Owner will, on request, provide to a Subcontractor, if practicable, information regarding percentages of completion or amounts applied for by the

Design-Builder and action taken thereon by the Owner on account of portions of the Work done by such Subcontractor.

GC-9.6.4 The Owner shall have no obligation to pay or to see to the payment of money to a Subcontractor of any tier except as may otherwise be required by law. However, the Owner may, at its sole option, issue joint checks to the Design-Builder and to any Subcontractor or material or equipment suppliers to whom the Design-Builder failed to make payment for Work properly performed or material or equipment suitably delivered. If the Owner makes payments by joint check, the Design-Builder will reflect such payment on the next Application for Payment.

GC-9.6.5 A progress payment, or partial or entire use or occupancy of the Project by the Owner, shall not constitute acceptance of Work.

GC-9.6.6 Unless the Design-Builder provides the Owner with a payment bond in the full penal sum of the GMP, payments received by the Design-Builder for Work properly performed by Subcontractors of any tier and suppliers shall be held by the Design-Builder in trust for those Subcontractors or suppliers who performed Work or provided materials, or both, under contract with the Design-Builder for which payment was made by the Owner. Nothing contained herein shall require money to be placed in a separate account.

GC-9.7 FAILURE OF PAYMENT

GC-9.7.1 If for reasons other than those enumerated in Section GC-9.5.1, the Owner improperly does not issue a payment for undisputed amounts within fifteen (15) days of the time period required by the Agreement following a timely Application for Payment for amounts properly due and owing to the Design-Builder, then the Design-Builder may, upon seven (7) additional days' written notice to the Owner, during which time the Design-Builder shall continue contract performance and the Owner may cure such lack of payment at any time, stop the Work until payment of the amount owing has been received. The Design-Builder may not stop the Work if the Owner withholds payments pursuant to Section GC-9.5.1. The Contract Time shall be extended appropriately and the GMP shall be increased by the amount of the Design-Builder's reasonable costs of shutdown, delay and start-up.

GC-9.8 SUBSTANTIAL COMPLETION

GC-9.8.1 Substantial Completion is the stage in the progress of the Work when the Work, or designated portion thereof approved by the Owner, is sufficiently complete in accordance with the Design-Build Documents so that the Owner can fully occupy or utilize the Work, or the designated portion thereof, for its intended use, including FF&E and staff occupancy. The fact that the Owner may occupy the Work or a designated portion thereof does not indicate that the Work is acceptable in whole or in part. All Work other than incidental corrective or punch list Work and final cleaning shall be completed, including but not limited to the following:

(1) Obtain applicable occupancy permits, including fire/life safety systems and health department approval, elevator permits, and similar approvals or certificates by governing authorities and franchised services, assuring the Owner's full access and use of completed Work.
(2) Submit the Design-Builder's punch list of items to be completed or corrected and written request for inspection.
(3) Complete final start-up, testing, and commence instruction and training sessions on all major building systems including HVAC and controls, intercom, data communications, fire alarm, telephone, fire sprinkler, security and clocks.
(4) Make final changeover of locks and transmit new keys to the Owner, and advise the Owner of the changeover in security provisions.
(5) Discontinue or change over and remove temporary facilities and services from the Project site.
(6) Advise the Owner on coordination of shifting insurance coverages, including proof of extended coverages as required.
(7) Complete final cleaning.

The Work is not Substantially Complete unless the Owner reasonably judge that the Work can achieve Final Completion within thirty (30) days (or such other period of time as is specified in the Design-Build Documents), appropriate cleaning has occurred, all designated systems and parts are usable, including the HVAC system (at least one (1) week of trend logs shall be provided and the HVAC system shall be balanced), utilities are connected and operating normally and training sessions have occurred, all required permits and approvals have been issued, O & M manuals have been submitted for review, and the Work is accessible by

normal vehicular and pedestrian traffic routes. The fact that the Owner may occupy the Work or a designated portion thereof does not indicate that the Work is Substantially Complete or is acceptable in whole or in part, nor does such occupation toll or change any liquidated damages due the Owner.

GC-9.8.2 Date of Commissioning of Operational Systems. The systems of the Work so designated in the Design-Build Documents are considered "Operational Systems." Unless otherwise specified in the Design-Build Documents, the Operational Systems include the HVAC system, the data communications system(s), the intercom system, the life safety system(s), the clock system, the telephone system, and the security system. When the Design-Builder considers that the Operational Systems are complete and fully functional, up and running and ready for normal operation and functional performance testing (as may be specified overall or for any phases), and after all pre-commissioning checklists have been completed. The Design-Builder shall so notify the Owner in writing a minimum of thirty (30) days prior to the Date of Substantial Completion for that portion or phase as fixed in the Design-Build Documents. The Owner will then schedule a pre-commissioning inspection and observe the functional performance tests of these systems identified in the Design-Build Documents to determine whether the Operational Systems are complete and ready for normal operation. If the Owner's inspection discloses that the Operational Systems are not Substantially Complete or that any item is not in accordance with the requirements of the Design-Build Documents, the Design-Builder shall expeditiously, and before the Date of Commissioning, complete or correct such item upon notification by the Owner. The Design-Builder shall then submit a request for another inspection by the Owner to determine completion of the Operational Systems and pay the costs associated with the reinspection, including fees of any commissioning agent and the Owner and its consultants. As each of the Operational Systems is determined to be complete, the Owner will notify the Design-Builder in writing, which shall establish the Date of Commissioning. Training of Owner personnel shall not begin until the Date of Commissioning and shall be conducted prior to departure of the installing entity from the site by appropriate Subcontractor personnel on site who are knowledgeable with the construction and operation of each system. Warranties on the Operational Systems required by the Design-Build Documents shall commence on the Date of Commissioning of the entire Project, unless otherwise provided, but the Design-Builder shall retain the responsibility to maintain the systems until Final Acceptance. The Date of Commissioning shall not have an effect on the duties of the parties at Substantial Completion.

GC-9.8.3 When the Design-Builder considers that the Work, or a portion thereof which the Owner agrees to accept separately, is substantially complete, the Design-Builder shall prepare and submit to the Owner a comprehensive punch list of items to be completed or corrected prior to final payment. The Design-Builder shall proceed promptly to complete and correct items on the list. Failure to include an item on such list does not alter the responsibility of the Design-Builder to complete all Work in accordance with the Design-Build Documents.

GC-9.8.4 Upon receipt of the Design-Builder's punch list, and upon verification that all permits, approvals, testing, training and other submittals and administrative actions required under the Design-Build Documents for obtaining Substantial Completion have been satisfied, the Owner shall make an inspection to determine whether the Work or designated portion thereof has achieved Substantial Completion. If the Owner's inspection discloses any item, whether or not included on the Design-Builder's list, that is not substantially complete, the Design-Builder shall complete or correct such item. In such case, the Design-Builder shall then submit a request for another inspection by the Owner to determine whether the Design-Builder's Work has achieved Substantial Completion. If the Owner determines that the Work or designated portion has not achieved Substantial Completion, the Design-Builder shall expeditiously complete the Work or designated portion, again request an inspection, and pay the costs associated with the reinspection. Any items not listed by the Owner but required or necessary for Final Completion of the Contract shall be supplied and installed by the Design-Builder at no change to the GMP, notwithstanding their not being recorded on the list.

GC-9.8.5 In the event of a dispute regarding whether the Design-Builder's Work has achieved Substantial Completion, the dispute shall be resolved pursuant to Article GC-4.

GC-9.8.6 When the Work or designated portion thereof is substantially complete, the Design-Builder shall prepare for the Owner's signature an acknowledgement of Substantial Completion which, when signed by the Owner, shall establish (1) the date of Substantial Completion of the Work, (2) responsibilities between the Owner and Design-Builder for security, maintenance, heat, utilities, damage to the Work and insurance, and (3) the time within which the Design-Builder shall finish all items on the list accompanying the acknowledgement.

When the Owner's inspection discloses that the Work or a designated portion thereof has achieved Substantial Completion, the Owner shall sign the acknowledgement of Substantial Completion. Warranties required by the Design-Build Documents shall commence on the date of Substantial Completion of the Work or designated portion thereof. The Design-Builder shall attach and submit with the executed acknowledgement of Substantial Completion a written list of each outstanding and unresolved Claim; any Claim not so submitted and identified, other than retainage and the undisputed balance of the Contract Sum, shall be deemed waived and abandoned. If the Owner determines that the Work or designated portion is not substantially complete, the Design-Builder shall expeditiously complete the Work or designated portion, again request an inspection, and pay the costs associated with the reinspection, including design and consultant fees.

GC-9.8.7 Upon execution of the acknowledgement of Substantial Completion, and upon the Design-Builder's Application for Payment and consent of surety, if any, the Owner shall make payment as provided in the Design-Build Documents. Such payment shall be adjusted for Work that is incomplete or not in accordance with the requirements of the Design-Build Documents. No further payment will be due or owing until the payment following Final Completion.

GC-9.8.8 The Design-Builder shall prepare, continue to monitor with the Owner, and cause to be completed, all punch lists with respect to the activity of each Subcontractor of any tier and report weekly to the Owner on outstanding punch list items. Beginning thirty (30) days before the scheduled date of Substantial Completion, the Design-Builder shall prepare and submit to the Owner weekly reports to identify items to be completed and recommendations for effectuating the earliest possible completion. The Design-Builder shall include this report as a schedule item on the Project schedule.

GC-9.9 PARTIAL OCCUPANCY OR USE

GC-9.9.1 The Owner may, upon written notice to the Design-Builder, take possession of, operate, occupy or use any completed or partially completed portion of the Work at any stage and time, so long as such operation, occupancy, or use does not unreasonably interfere with the Work. The Design-Builder will cooperate with such occupancy and use, including without limitation any FF&E or staff move-in, provided it does not occur until authorized by public authorities having jurisdiction over the Project. Such partial occupancy or use may commence whether or not the portion is substantially complete. Unless otherwise agreed in writing, such possession, use or operation shall not be deemed an acceptance of any portion of the Work, nor accelerate the time for any payment to the Design-Builder under the Design-Build Contract, nor prejudice any rights of the Owner under the Design-Build Contract or under any insurance, bond, guaranty or other requirement of the Contract, nor relieve the Design-Builder of the risk of loss or any of its obligations under the Design-Build Contract, nor establish a Date of Substantial or Final Completion, nor establish a date for termination or partial termination of the running of liquidated damages, nor constitute a waiver of any Owner claims. If the Design-Builder fails to achieve Substantial Completion of the Work within the Contract Time, or fails to achieve Final Completion of the Work within thirty (30) days of Substantial Completion (or such other period of time as is specified in the Design-Build Documents), the Owner may take possession of, use or operate all or any part of the Work without an increase in the GMP or the Contract Time on account of such possession or use. When the Design-Builder considers a portion substantially complete, the Design-Builder shall prepare and submit a list to the Owner as provided under Section GC-9.8.3. Consent of the Design-Builder to partial occupancy or use shall not be unreasonably withheld.

GC-9.9.2 Immediately prior to such partial occupancy or use, the Owner and Design-Builder shall jointly inspect the area to be occupied or portion of the Work to be used to determine and record the condition of the Work.

GC-9.9.3 Unless otherwise agreed upon, partial occupancy or use of a portion or portions of the Work shall not constitute acceptance of Work not complying with the requirements of the Design-Build Documents.

GC-9.10 FINAL COMPLETION, FINAL ACCEPTANCE, AND FINAL PAYMENT

GC-9.10.1 FINAL COMPLETION

GC-9.10.1.1 The Design-Builder shall cause punch list items to be completed within thirty (30) days of Substantial Completion or within such reasonable period as may be required to correct the item (in the event that the punch list items are, because of their nature, incapable of correction during that period) provided that the Design-Builder commences to correct the item within that period and thereafter diligently and in good faith pursues the corrective action to completion. If, after the Date of Substantial Completion, the Owner considers

that punch list items are unlikely to be completed within thirty (30) days of the Date of Substantial Completion (or such other period of time as is specified in the Design-Build Documents), the Owner may, upon seven (7) days' written notice to the Design-Builder, take over and perform some or all of the punch list items. Moreover, and without limiting any other available remedy, the Owner may take over and complete any portion of the Work at any time more than thirty (30) days following Substantial Completion if Final Completion has not been achieved. If the Owner elects to take over and perform any portion of the Work, the Owner may deduct from the Cost of the Work the actual cost of performing this punch list Work (including direct and indirect costs), including any design costs, plus fifteen percent (15%) to account for the Owner's transaction costs from the GMP.

GC-9.10.1.2 Upon receipt of written notice from the Design-Builder that the Work is ready for final inspection and acceptance, the Owner shall promptly make such inspection accompanied by the Design-Builder (if requested by the Owner). When the Owner finds all punch list items complete and the Work acceptable under the Design-Build Documents and fully performed, the Owner shall, subject to Section GC-9.10.2, promptly make final payment to the Design-Builder. If the Owner determines that some or all of the punch list items are not accomplished, the Design-Builder shall be responsible to the Owner for all costs, including reinspection fees, for any subsequent Owner's inspection to determine compliance with the punch list.

GC-9.10.1.3 When the Owner finds that the Work has been concluded, a final occupancy permit has been issued, any commissioning process and validation process have been successfully concluded, and the Design-Builder has submitted all the items in Section GC-9.10.2.1 or otherwise required by the Design-Build Documents to the Owner, the Design-Builder may submit a final Application for Payment. The Owner will then promptly issue a final acknowledgment of the final Application for Payment stating that the entire balance found to be due the Design-Builder and noted in the final Application for Payment is due and payable. The Owner's acknowledgment of the final Application for Payment shall establish the date of Final Completion upon its execution by the Owner.

GC-9.10.1.4 The Design-Builder is liable for, and the Owner may deduct from any amounts due the Design-Builder, all design consultant, Commissioning and construction management fees, incurred by the Owner for services performed more than thirty (30) days after Substantial Completion of all the Work (or such other period of time as is specified in the Design-Build Documents), whether or not those services would have been performed prior to that date had Final Completion been achieved in a timely manner.

GC-9.10.1.5 "Final Completion" will be attained when the Design-Builder has accomplished the following:

(1) Complete all requirements listed in Section GC-9.8 for Substantial Completion.
(2) Complete all remaining punch list items and remaining Work, obtain approval by Owner that all Work is complete, and obtain permanent occupancy permits.
(3) Submit an acknowledged final Application for Payment.
(4) Submit record documents, any final property survey, and operation and maintenance manuals required by the Design-Build Documents.
(5) Deliver tools, spare parts, extra stock of material and similar physical items to the Owner as required by the Design-Build Documents.
(6) Complete final cleaning after punch list Work (in addition to the final cleaning that was required to obtain Substantial Completion).
(7) Complete instruction and training sessions (which many occur prior to Substantial Completion) on all major building systems including HVAC, intercom, data communications, fire alarm, telephone, fire sprinkler, emergency power, security and clocks.
(8) Submit executed warranties.
(9) Make final changeover of locks and transmit new keys to the Owner, and advise the Owner of the changeover in security provisions.
(10) Discontinue or change over and remove temporary facilities and services from the Project site.
(11) Advise the Owner on coordination of any shifting insurance coverages, including proof of extended coverages as required.

GC-9.10.2 FINAL ACCEPTANCE AND PAYMENT (EXCLUDING RETAINAGE)

GC-9.10.2.1 Final payment shall not become due until after the Owner has formally accepted the Project ("Final Acceptance"). Pursuant to RCW 60.28, "Lien for Labor, Materials, Taxes on Public Works,"

completion of the Contract Work shall occur upon Final Acceptance. To achieve Final Acceptance, Final Completion must have occurred, and the Design-Builder must have submitted to the Owner the following:

(1) an affidavit that all payrolls, bills for materials and equipment, and other indebtedness connected with the Work for which the Owner or the Owner's property might be responsible or encumbered (less amounts withheld by Owner) have been paid or otherwise satisfied, except for any claims that are specifically identified on the affidavit (Affidavit of Payment of Debts and Claims, AIA form G706 or equivalent),
(2) a certificate evidencing that insurance required by the Design-Build Documents to remain in force after final payment is currently in effect and will not be cancelled or allowed to expire until at least forty-five (45) days' prior written notice has been given to the Owner,
(3) a written statement that the Design-Builder knows of no substantial reason that the insurance will not be renewable to cover the period required by the Design-Build Documents,
(4) consent of surety, if any, to final payment (AIA form G707 or equivalent),
(5) other data establishing payment or satisfaction of or protection against obligations, such as receipts, releases and waivers of liens, claims, security interests or encumbrances arising out of the Design-Build Documents, to the extent and in such form as may be designated by the Owner ("Affidavit of Release of Liens," AIA form G706A or equivalent),
(6) pursuant to RCW 39.12.040, an "Affidavit of Wages Paid" from the Design-Builder and from each Subcontractor of any tier certified by the Industrial Statistician of the Washington State Department of Labor and Industries, with the fees paid by the Design-Builder or Subcontractor,
(7) certification that the materials in the Work are "lead-free" and "asbestos-free," and
(8) all warranties, guarantees, training, manuals, operation instructions, certificates, spare parts, maintenance manuals and stock, specified excess material, as-built drawings and other documents, training or items required by the Design-Build Documents or local governmental entities.

GC-9.10.3 If, after the Owner determines that the Design-Builder's Work or designated portion thereof has achieved Substantial Completion, Final Completion thereof is materially delayed through no fault of the Design-Builder or by issuance of a Change Order or a Construction Change Directive affecting Final Completion, the Owner may, upon application by the Design-Builder, make payment of the balance due for that portion of the Work fully completed and accepted. If the remaining balance for Work not fully completed or corrected is less than retainage stipulated in the Design-Build Documents, and if bonds have been provided, the written consent of surety to payment of the balance due for that portion of the Work fully completed and accepted shall be submitted by the Design-Builder. Such payment shall be made under terms and conditions governing final payment, except that it shall not constitute a waiver of claims.

GC-9.10.4 Release of Retainage. The retainage will be held and applied by the Owner as a trust fund in a manner required by RCW 60.28. Release of the retainage will be processed in ordinary course of business upon the expiration of sixty (60) days following Final Acceptance of the Work by the Owner provided that no notice of lien shall have been given as provided in RCW 60.28, that no claims have been brought to the attention of the Owner and that the Owner has no claims under this Contract; and provided further that release of retention has been duly authorized by the State. The following items must be obtained prior to release of retainage: pursuant to RCW 60.28, a certificate from the Department of Revenue; pursuant to RCW 50.24, a certificate from the Department of Employment Security; and appropriate information from the Department of Labor and Industries.

GC-9.10.5 Waiver of Claims

GC-9.10.5.1 Final Payment by Owner. The making of final payment shall constitute a waiver of Claims by the Owner except those arising from:

.1 liens, statutory retainage, Claims, security interests or encumbrances arising out of the Design-Build Documents and unsettled;
.2 failure of the Work to comply with the requirements of the Design-Build Documents; or
.3 terms of warranties required by the Design-Build Documents.

GC-9.10.5.2 Final Payment to Design-Builder. Acceptance of final payment by the Design-Builder, a Subcontractor of any tier or material supplier shall constitute a waiver of claims by that payee except those previously made in writing and identified by that payee as unsettled and attached to the Design-Builder's Final Application for Payment.

GC-9.10.5.3 Change Orders. The execution of a Change Order shall constitute a waiver of Claims by the Design-Builder arising out of the Work to be performed or deleted pursuant to the Change Order, except as specifically described in the Change Order. Reservations of rights will be deemed waived and are void unless the reserved rights are specifically described in detail to the satisfaction of the Owner and are approved in writing by the Owner. If the Design-Builder adds a reservation of rights that has not been initialed by the Owner to any Change Order, Construction Change Directive, Change Order proposal, Application for Payment or any other document, all amounts and all Work therein shall be considered disputed and not due or payable unless and until costs are renegotiated or the reservation is withdrawn or changed in a manner satisfactory to and, in all cases, initialed by the Owner. If the Owner makes payment for a Change Order or an Application for Payment that contains a reservation of rights not initialed by the Owner to indicate agreement with the reservation, and if the Design-Builder accepts such payment, then the reservation of rights shall be deemed waived, withdrawn and of no effect.

GC-9.10.6 If a Subcontractor of any tier refuses to provide a release or waiver required by the Owner, the Owner may (a) retain in the fund, account, or escrow funds in such amount as to defray the cost of foreclosing the liens of such claims and to pay attorneys' fees, the total of which shall be one hundred and fifty percent (150%) of the claimed amount or such higher amount as authorized by statute, or (b) accept a bond from the Design-Builder, satisfactory to the Owner, to indemnify the Owner against such lien. If any such lien remains unsatisfied after all payments from the retainage are made, the Design-Builder shall refund to the Owner all moneys that the Owner may be compelled to pay in discharging such lien, including all costs and reasonable attorneys' fees.

GC-9.11 Records

GC-9.11.1 The Design-Builder and each Subcontractor of any tier shall maintain books, ledgers, records, documents, estimates, correspondence, logs, schedules, bids and/or proposals, emails, and other tanglible and electronic data and other evidence relating or pertaining to the costs and/or performance of the Design-Build Contract ("Records") to such extent and in such detail as will properly reflect and fully support compliance with the requirements of the Design-Build Documents and with all costs, charges and other amounts of whatever nature. The Design-Builder and each Subcontractor shall preserve such Records for a period of six (6) years following the date of Final Acceptance under the Design-Build Contract and for such longer period as may be required by any other provision of the Design-Build Contract. Within seven (7) days of the Owner's request, the Design-Builder or a Subcontractor of any tier, as applicable, shall make available at its office during normal business hours all requested Records for inspection, audit and reproduction (including electronic reproduction) by the Owner or its representatives; failure to fully comply with this requirement shall constitute a waiver of all claims and a material breach of contract.

GC-9.11.2 The Design-Builder agrees, on behalf of itself and Subcontractors of any tier, that any rights under RCW 42.56, "Disclosure," will commence at Final Acceptance, and that the invocation of such rights at any time by the Design-Builder or a Subcontractor of any tier shall initiate an equivalent right to disclosures from the Design-Builder and that Subcontractor of any tier for the benefit of the Owner.

GC-9.11.3 The Design-Builder and its Subcontractors of any tier shall submit any Project information required by the capital projects advisory review board pursuant to RCW 39.10.

ARTICLE GC-10 PROTECTION OF PERSONS AND PROPERTY

GC-10.1 SAFETY PRECAUTIONS AND PROGRAMS

GC-10.1.1 The Design-Builder shall be solely responsible for initiating, maintaining and supervising all safety precautions and programs in connection with the performance of the Contract. The Design-Builder shall have the right to control and shall be solely and completely responsible for conditions of the work site, including safety of all persons and property, during performance of the Work. The Design-Builder shall maintain the Work site and perform the Work in a manner that meets statutory and common-law requirements for the provision of a safe place to work. This requirement shall apply continuously and not be limited to working hours. Any review by the Owner of the Design-Builder's performance shall not be construed to include a review of the adequacy of the Design-Builder's safety measures in, on or near the site of the Work.

GC-10.1.2 No action or inaction of the Owner relating to safety or property protection or a violation thereof shall in any way: (1) relieve the Design-Builder of sole and complete responsibility for the violation and the correction thereof, or of sole liability for the consequences of said violation; (2) impose any obligation upon the

Owner to inspect or review the Design-Builder's safety program or precautions or to enforce the Design-Builder's compliance with the requirements of this Article 10; (3) impose any continuing obligation upon the Owner to ensure the Design-Builder performs the Work safely or to provide such notice to the Design-Builder or any other person or entity; (4) affect the Design-Builder's sole and complete responsibility for performing the Work safely or the Design-Builder's responsibility for the safety and welfare of its employees and the employees of Subcontractors of any tier; or (5) affect the Design-Builder's responsibility for the protection of property, staff and the general public.

GC-10.2 SAFETY OF PERSONS AND PROPERTY

GC-10.2.1 The Design-Builder shall take reasonable precautions for safety of, and shall provide reasonable protection to prevent damage, injury or loss to:

- **.1** employees on or involved in the Work and other persons who may be affected thereby;
- **.2** the Work and materials and equipment to be incorporated therein, whether in storage on or off the site, under care, custody or control of the Design-Builder or the Design-Builder's Subcontractors or Sub-subcontractors; and
- **.3** other property at the site or adjacent thereto, such as trees, shrubs, lawns, walks, pavements, roadways, structures and utilities not designated for removal, relocation or replacement in the course of construction.

GC-10.2.2 The Design-Builder shall comply with and give notices required by applicable laws, statutes, ordinances, codes, rules and regulations, and lawful orders of public authorities bearing on safety of persons or property or their protection from damage, injury or loss. The Design-Builder shall comply with all notices and comply with all requests from the Owner regarding the safety and protection of the Owner's staff. The Design-Builder shall comply with the safety regulations set forth in "Safety Standards for Construction" and "General Safety Standards" and any other requirements published by the Washington State Department of Labor and Industries. The Design-Builder shall comply with the Federal Occupational Safety and Health Act of 1970 (OSHA), including all revisions, amendments and regulations issued thereunder, and the provisions of the Washington Industrial Safety and Health Act of 1973 (WISHA), including all revisions, amendments and regulations issued thereunder by the Washington State Department of Labor and Industries. The WISHA regulations shall apply to all excavation, trenching and ditching operations. In case of conflict between any such requirements, the more stringent applicable regulation or requirement shall apply.

GC-10.2.3 The Design-Builder shall erect and maintain, as required by existing conditions and performance of the Contract, reasonable safeguards for safety and protection, including posting danger signs and other warnings against hazards, promulgating safety regulations and notifying owners and users of adjacent sites and utilities. The Design-Builder shall maintain at the work site office or other well-known place at the work site all materials (e.g., a first aid kit) necessary for giving first aid to the injured, and shall establish, publish and make known to all employees procedures for ensuring immediate removal to a hospital or a doctor's care, persons, including employees, who may have been injured on the site. Employees shall not be permitted to work on the site before the Design-Builder has established and made known procedures for removal of injured persons to a hospital or a doctor's care. The Design-Builder's and/or any Subcontractors shall ensure that at least one of such employees has a valid, effective first aid card.

GC-10.2.4 When use or storage of explosives or other hazardous materials or equipment or unusual methods are necessary for execution of the Work and explicitly permitted by the Design-Build Documents, the Design-Builder shall exercise utmost care and carry on such activities under supervision of properly qualified personnel.

GC-10.2.5 The Design-Builder shall promptly remedy damage and loss (other than damage or loss insured under property insurance required by the Design-Build Documents) to property referred to in Sections 10.2.1.2 and 10.2.1.3 caused in whole or in part by the Design-Builder, the Engineer, a Subcontractor of any tier, or anyone directly or indirectly employed by any of them, or by anyone for whose acts they may be liable and for which the Design-Builder is responsible under Sections 10.2.1.2 and 10.2.1.3, except damage or loss attributable to acts or omissions of the Owner or anyone directly or indirectly employed by the Owner, or by anyone for whose acts the Owner may be liable, and not attributable to the fault or negligence of the Design-Builder. The foregoing obligations of the Design-Builder are in addition to the Design-Builder's obligations under Section GC-3.17.

GC-10.2.6 The Design-Builder shall designate a responsible member of the Design-Builder's organization at the site whose duty shall be the prevention of accidents. This person shall be the Design-Builder's superintendent unless otherwise designated by the Design-Builder in writing to the Owner.

GC-10.2.7 The Design-Builder shall not load or permit any part of the construction or site to be loaded so as to cause damage or create an unsafe condition.

GC-10.2.8 At all times until the Owner's occupancy of the Work or a designated portion of the Work, the Design-Builder shall protect from damage, weather, deterioration, theft, vandalism and malicious mischief, and shall bear the risk of any uninsured loss or destruction of, or injury or damage to, all materials, equipment, tools, and other items incorporated or to be incorporated in the Work or designated portion, or consumed or used in the performance of the Work or designated portion, and all Work in process and completed Work or designated portion. The Design-Builder is responsible for any deductible amounts related to any insurance coverage.

GC-10.2.9 Any notice given to the Design-Builder by the Owner of a safety or property protection violation will not: (1) relieve the Design-Builder of sole and complete responsibility for the violation and the correction thereof, or for sole liability for the consequences of said violation; (2) impose any obligation upon the Owner to inspect or review the Design-Builder's safety program or precautions or to enforce the Design-Builder's compliance with the requirements of this Article 10; or (3) impose any continuing obligation upon the Owner to provide such notice to the Design-Builder or any other persons or entity.

GC-10.2.10 Portions of the Project site may be occupied by Owner during construction of the Project. The safety of these site occupants, visitors, and others is of paramount importance to the Owner. For that reason, the Design-Builder shall exercise control over all construction operations to ensure the safety of all site occupants and shall coordinate with the Owner as necessary to promote the Design-Builder's obligation for site safety. The Design-Builder shall also strictly follow all hours of work, joint occupancy, site security, and phasing requirements of the Project, including those set forth in Design-Build Documents.

GC-10.2.11 INJURY OR DAMAGE TO PERSON OR PROPERTY
If the Design-Builder suffers injury or damage to person or property because of an alleged act or omission of the Owner, or of others for whose acts the Owner may be legally responsible, written notice of such injury or damage, whether or not insured, shall be given to the Owner within a reasonable time not exceeding twenty-one (21) days after discovery. The notice shall provide sufficient detail to enable the other party to investigate the matter. This Section does not apply to Claims, damages for additional costs or time, acceleration, or delay.

GC-10.3 HAZARDOUS MATERIALS
GC-10.3.1 The Design-Builder is responsible for compliance with any requirements included in the Design-Build Documents regarding hazardous materials. If the Design-Builder encounters a hazardous material or substance not addressed in the Design-Build Documents and if reasonable precautions will be inadequate to prevent foreseeable bodily injury or death to persons resulting from a hazardous material or substance, as defined by CERCLA, including but not limited to asbestos or polychlorinated biphenyl (PCB), encountered on the site by the Design-Builder, the Design-Builder shall, upon recognizing the condition, immediately stop Work in the affected area and report the condition to the Owner in writing. The Design-Builder shall proceed with the Work in areas not affected.

GC-10.3.2 Upon receipt of the Design-Builder's written notice, and with the Owner's agreement, the Owner shall obtain the services of a licensed laboratory to reasonably verify the presence or absence of the material or substance reported by the Design-Builder and, in the event such material or substance is found to be present, to verify that it has been rendered harmless. Unless otherwise required by the Design-Build Documents, the Owner shall furnish in writing to the Design-Builder the names and qualifications of persons or entities who are to perform tests verifying the presence or absence of such material or substance or who are to perform the task of removal or safe containment of such material or substance. The Design-Builder will promptly reply to the Owner in writing stating whether or not it has reasonable objection to the persons or entities proposed by the Owner. If the Design-Builder has an objection to a person or entity proposed by the Owner, the Owner shall propose another to whom the Design-Builder has no reasonable objection, but the Owner shall not be responsible for any delay resulting from the Design-Builder's objection to such person or entity. When the material or substance has been rendered harmless, Work in the affected area shall resume upon written

agreement of the Owner and Design-Builder. By Change Order, the Contract Time may be extended appropriately and the GMP may be increased in the amount of the Design-Builder's demonstrated and reasonable additional costs of shut-down, delay and start-up, which adjustments shall be accomplished as provided in Articles 4, 7, and 8.

GC-10.3.3 To the fullest extent permitted by law, the Owner shall indemnify and hold harmless the Design-Builder, Subcontractors, and agents and employees of any of them from and against claims, damages, losses and expenses, including but not limited to attorneys' fees, arising out of or resulting from performance of the Work in the affected area if in fact the material or substance presents the risk of bodily injury or death as described in Section GC-10.3.1 and has not been rendered harmless, provided that such claim, damage, loss or expense is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property (other than the Work itself), except to the extent that such damage, loss or expense is due to the fault or negligence of the party seeking indemnity or if the removal of such material or substance was a part of the Design-Builder's Work.

GC-10.3.4 The Owner shall not be responsible under this Section GC-10.3 for materials or substances the Design-Builder brings to the site. The Owner shall be responsible for materials or substances required by the Design-Build Documents, except to the extent of the Design-Builder's fault, misuse, or negligence in the use and handling of such materials or substances. The Design-Builder shall store all hazardous materials safely, whether or not required by Design-Build Documents. The Design-Builder shall not install hazardous materials, including without limitation asbestos, lead, mercury, or polychlorinated biphenyl (PCB), in the Work.

GC-10.3.5 The Design-Builder shall indemnify the Owner for the cost and expense the Owner incurs (1) for remediation of a material or substance the Design-Builder brings to the site and negligently handles, or (2) where the Design-Builder fails to perform its obligations under Section GC-10.3.1, except to the extent that the cost and expense are due to the Owner's fault or negligence.

GC-10.3.6 If, without fault or negligence on the part of the Design-Builder, and if the remediation was not a part of the Design-Builder's scope of Work under the Design-Build Documents, the Design-Builder is held liable by a government agency for the cost of remediation of an existing hazardous material or substance solely by reason of performing Work as required by the Design-Build Documents, the Owner shall indemnify the Design-Builder for all cost and expense thereby incurred.

GC-10.3.7 To the extent this Project involves the remediation of contaminated property, the Design-Builder shall comply with RCW 64.44 and 70.105D and any provisions of the Washington Administrative Code promulgated thereunder, including the use of authorized contractors as provided in RCW 64.44.060. The Design-Builder shall comply with all applicable requirements of RCW 70.95 and any provisions of the Washington Administrative Code promulgated thereunder.

GC-10.4 EMERGENCIES

In an emergency affecting safety of persons or property, the Design-Builder shall act, at the Design-Builder's discretion, to prevent threatened damage, injury or loss. Additional compensation or extension of time claimed by the Design-Builder on account of an emergency shall be determined as provided in Articles 4 and 7.

GC-10.5 PUBLIC SAFETY AND CONVENIENCE

GC-10.5.1 The Design-Builder shall conduct its Work so as to ensure the least possible obstruction to vehicular traffic and inconvenience to the general public and others in the vicinity of the Work and to ensure the protection of persons, property and natural resources. No road or street shall be closed to the public except with the permission of the Owner and the proper governmental authority. Fire hydrants on or adjacent to the Work shall be accessible to firefighting equipment at all times. Temporary provisions shall be made by the Design-Builder to ensure the use of sidewalks, fire lanes, private and public driveways and proper functioning of gutters, sewer inlets, drainage ditches and culverts, irrigation ditches and natural water courses, if any, on the Work site.

ARTICLE GC-11 INSURANCE AND BONDS

GC-11.1 Except as may otherwise be set forth in the Agreement or elsewhere in the Design-Build Documents, the Owner and Design-Builder shall purchase and maintain the following types of insurance with limits of liability and subject to such terms and conditions, as set forth in this Article GC-11.

GC-11.2 DESIGN-BUILDER'S LIABILITY INSURANCE

GC-11.2.1 The Design-Builder shall purchase from and maintain in a company or companies lawfully authorized and admitted to do business in the jurisdiction in which the Project is located possessing an A.M. Best's policyholder's rating of A minus or better and a financial rating of no less than IX and reasonably acceptable to the Owner, an occurrence-based Commercial General Liability Insurance Policy, which shall provide personal injury, bodily injury and property damage liability to cover the Design-Builder's operations, including Subcontractors and suppliers of any tier; owned, non-owned and hired vehicles; on work the Design-Builder may subcontract or sublet to others; and on the indemnity provisions of this Contract, including but not limited to premises, products/completed operations, personal injury, blanket contractual liability, explosion, collapse or underground (XCU), employment related practices coverage, and stopgap employer's liability. Except for professional liability insurances, this insurance will name the Owner, its consultants and employees, any required governmental agencies, the Owner's Project Manager, and others designated in the Design-Build Documents as additional insureds for all coverages required by Article GC-11 and will include a severability of interest (cross liability clause) for Work performed under this Contract. The Design-Builder's policy shall be designated primary coverage for both defense and indemnity, and any Owner's policies excess. Such limits of liability insurance shall have per project general aggregate provisions and be in such amounts as specified in the Design-Build Documents.

GC-11.2.2 The Design-Builder, the Design-Builder's Engineer, other design consultants, and any design-build Subcontractors of any tier shall purchase from and maintain in a company or companies lawfully authorized and admitted to do business in the State of Washington, and possessing an A.M. Best's policyholder's rating of A minus or better and a financial rating of no less than IX, Professional Liability/Errors and Omissions Liability insurance with limits of liability specified in the Design-Build Documents or required by law, whichever coverage is greater. Such insurance shall be purchased from a company or companies or reasonably acceptable to the Owner and maintained for at least six (6) years after Substantial Completion.

GC-11.2.3 The insurance required by Section GC-11.2 shall be written for not less than the limits of liability specified in the Design-Build Documents or required by law, whichever coverage is greater. If existing policy(s) provide higher limits than those specified herein, the higher limits shall be applicable and the certificates should reflect those higher limits. If the Owner is damaged by the failure of the Design-Builder or a Subcontractor of any tier to maintain any of the required insurance or to so notify the Owner, then the Design-Builder shall bear all costs attributable thereto. Coverages shall be maintained without interruption from date of commencement of the Work until the date of Final Acceptance, except for any coverage required to be maintained after Final Acceptance. Completed operations coverage shall remain in force for six (6) years after Substantial Completion and shall name the Owner, its consultants, the Owner's Project Manager, and any other identified in the Design-Build Documents as additional insureds. The insurance described above shall include coverage for underground, collapse and explosion exposures. In addition, the Design-Builder shall purchase and maintain insurance for claims under workers' compensation (industrial insurance), disability benefit and other similar employee benefit acts in the State statutory amount and Stop Gap Liability Insurance (Employer's Contingent Liability Insurance) with coverage of at least $1,000,000 each occurrence/each accident. All policies and certificates must be signed copies and shall contain a provision that written notice by certified mail must be provided to the Owner at least forty-five (45) days before the policies expire or are cancelled or any coverages afforded under the policies are reduced, limits decreased, or the additional insureds removed. The Design-Builder shall provide to the Owner copies of any subsequently issued endorsements amending, modifying, altering or restricting coverage or limits.

GC-11.2.4 Before commencement of the Work, including presence on the site, and before any exposure to loss can occur, and, in any event, within ten (10) days after the Owner has issued its Conditional Notice to Proceed, the Design-Builder shall provide the Owner with four copies of Certificates of Insurance on AIA Document G705 or ACORD Certificate of Liability Insurance as evidence of all insurance required by the Design-Build Documents. If the Agreement is executed, no Progress Payment will be due until all such certificates are provided but failure to withhold payment shall not constitute a waiver of any provision of the Design-Build Contract. All policies and certificates must be signed copies and shall contain a provision that coverages afforded under the policies cannot be materially altered (i.e., the coverages reduced, the limits decreased or the additional insured removed) allowed to expire, or cancelled without first giving forty-five (45) days' prior written notice by certified mail to the Owner. The Design-Builder shall provide to the Owner copies of any subsequently issued endorsements amending, modifying, altering or restricting coverage limits. Furthermore,

such policies or certificates shall contain a clause verifying that the policy contains coverage for blanket contractual liability including both oral and written contracts and that liability coverages include protection for underground, collapse and explosion and that the indemnification provisions under the Design-Build Contract are acknowledged. An additional certificate evidencing continuation of liability coverage, including coverage for completed operations, shall be submitted with the final Application for Payment and thereafter upon renewal or replacement of such coverage until the expiration of the time required by Section GC-11.2. Information concerning reduction of coverage on account of revised limits or claims paid under the General Aggregate, or both, shall be provided by the Design-Builder with reasonable promptness.

GC-11.2.5 The Owner's specification or approval of the insurance in this Contract or of its amount shall not relieve or decrease the liability of the Design-Builder under the Design-Build Documents or otherwise. Coverages are the minimum to be provided and are not limitations of liability under the Contract, indemnification, or applicable law provisions. The Design-Builder may, at its expense, purchase larger coverage amounts but such costs may not be charged to the Owner. And notwithstanding anything herein to the contrary, the Design-Builder shall provide all bonding, insurance, and permit documentation as required by governmental entities for all portions of the Project.

GC-11.2.6 The Design-Builder shall ensure and require that Subcontractors of any tier have insurance coverage to cover bodily injury and property damage on all operations and all vehicles owned or operated by Subcontractors of all tiers in the minimum amount of $1,000,000 per occurrence with a $2,000,000 aggregate limit. Also, Subcontractors shall name the Design-Builder, the Owner, and the Owner's Project Manager and consultants and shall cause the commercial liability coverage required by the Design-Build Documents to include the Owner, the Owner's consultants, and others identified by the Owner as additional insureds for claims arising out of or caused in whole or in part by the Design-Builder's negligent acts or omissions during the Design-Builder's (1) operations and (2) completed operations, giving at least forty-five (45) days' notice of cancellation.

GC-11.3 OWNER'S LIABILITY INSURANCE

GC-11.3.1 The Owner shall be responsible for purchasing and maintaining the Owner's usual liability insurance.

GC-11.4 PROPERTY INSURANCE

GC-11.4.1 Unless the Owner elects in writing to procure builder's risk insurance directly, the Design-Builder shall purchase and maintain until Substantial Completion, in a company or companies lawfully authorized and admitted 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 GMP, plus the value of subsequent Design-Build 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. Such property insurance shall be maintained, unless otherwise agreed in writing by all persons and entities who are beneficiaries of such insurance, until no person or entity other than the Owner has an insurable interest in the property required by this Section GC-11.4 to be covered. This insurance shall include interests of the Owner, Design-Builder, and Subcontractors of any tier in the Project. This insurance shall provide "all-risk" coverage for the interests of the Owner, the Design-Builder and Subcontractors as named insureds, as their respective interests appear. Each loss may be subject to a deductible of not more than $25,000. Losses up to the deductible amount or otherwise not covered by insurance shall be a Cost of the Work within the GMP, except the Owner shall be responsible for the deductible amounts listed above for losses caused by the Owner or caused by natural disaster. This insurance shall include as named insureds and as loss payees the Owner, the Design-Builder and Subcontractors of any tier, as their respective interests appear. The policy shall be endorsed to allow complete or partial occupancy by the Owner before or after Substantial Completion without the insurer's approval. All tools and equipment of the Design-Builder and Subcontractors of any tier not intended as part of the construction or installation of the Work will be the sole responsibility of the Design-Builder.

GC-11.4.2 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, 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 Design-Builder's services and expenses required as a result of repairing the loss.

GC-11.4.3 This property insurance shall cover portions of the Work stored off the site and also portions of the Work in transit. All tools and equipment of the Design-Builder and Subcontractors of any tier not intended as part of the construction or installation of the Work will be the sole responsibility of the Design-Builder.

GC-11.4.4 Partial occupancy or use in accordance with Section GC-9.10 shall not commence until the insurance company or companies providing property insurance have consented to such partial occupancy or use, by endorsement or otherwise. The Owner and the Design-Builder 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.

GC-11.4.5 Before an exposure to loss may occur, the Design-Builder shall file with the Owner a copy of each policy that includes insurance coverages required by this Section GC-11.4. 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 forty-five (45) days' prior written notice has been given to the Owner.

GC-11.4.6 If the GMP includes the cost for the Design-Builder to obtain the property insurance and if the Design-Builder does not purchase such property insurance required by the Contract and with all of the coverages in the amount described above, the Design-Builder shall so inform the Owner in writing prior to commencement of the Work. The Owner may then effect insurance that will protect the interests of the Owner, and by appropriate Change Order the cost thereof shall be charged to the Design-Builder. If the Owner is damaged by the failure or neglect of the Design-Builder to purchase or maintain insurance as described above, then the Design-Builder shall bear all reasonable costs properly attributable thereto.

GC-11.4.7 Waivers of Subrogation. The Owner and Design-Builder waive all rights against each other and any of their consultants, separate contractors described in Section GC-6.1, if any, Subcontractors, agents and employees, each of the other, and any of their contractors, subcontractors, agents and employees, for damages caused by fire or other causes of loss to the extent covered and paid for by property insurance obtained pursuant to this Section GC-11.4, except such rights as they have to proceeds of such insurance held by the Owner as fiduciary. The Owner or Design-Builder, as appropriate, shall require of the separate contractors described in Section GC-6.1, if any, and the 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, even though the person or entity 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.

GC-11.4.8 Adjustment. Upon the occurrence of a loss insured under the property insurance, the Owner shall participate in and approve the adjustment and settlement of any loss with the insurers. The Design-Builder shall pay Subcontractors their just shares of insurance proceeds received by the Design-Builder, and, by appropriate agreements, written where legally required for validity, shall require Subcontractors to make payments to their Subcontractors in similar manner. Any inconsistent policy provisions will supersede the provisions of this Section.

GC-11.5 PERFORMANCE BOND AND PAYMENT BOND

GC-11.5.1 The Design-Builder shall secure from a surety company acceptable to the Owner, admitted and licensed in the State of Washington, possessing an A.M. Best rating of "A minus" or better and a financial rating of no less than "IX," and shall furnish and pay for bonds covering the faithful performance of the Design-Build Contract and payment of obligations arising under the Design-Build Documents, each in the full amount of the Preconstruction Services and the GMP plus sales tax, pursuant to RCW 39.08, "Contractor's Bond." Prior to the execution of the Agreement, the Design-Builder shall (1) submit a letter from its surety specifying the percentage to be paid by the Design-Builder for increases in the GMP, and (2) deliver the originals of the bonds to the Owner. THE DESIGN-BUILDER SHALL NOT PROCEED WITH THE WORK UNTIL SUCH SURETY BONDS ARE RECEIVED. The Design-Builder shall be responsible for any delay in the Contract Time because of failure to submit acceptable bonds.

GC-11.5.2 Upon the request of any person or entity appearing to be a potential beneficiary of bonds covering payment of obligations arising under the Contract, the Design-Builder shall promptly provide a copy of the bonds or shall permit a copy to be made.

ARTICLE GC-12 UNCOVERING AND CORRECTION OF WORK

GC-12.1 UNCOVERING OF WORK

GC-12.1.1 If a portion of the Work is covered contrary to the Owner's request, requirements of a governmental authority, or as otherwise specifically expressed in the Design-Build Documents, it must be uncovered for the Owner's or governmental authority's examination and be replaced at the Design-Builder's expense without change in the GMP, Contract Time or Contract Sum.

GC-12.1.2 If a portion of the Work has been covered that the Owner or the governmental authority has not specifically requested to examine prior to its being covered and for which the Design-Build Documents did not require inspection, the Owner or the governmental authority may request to see such Work and it shall be uncovered by the Design-Builder. If such Work is in accordance with the Design-Build Documents, costs of uncovering and replacement shall, by appropriate Change Order, be at the Owner's expense. If such Work is not in accordance with the Design-Build Documents, correction shall be at the Design-Builder's expense without any increase in the GMP, Contract Sum, or Cost of the Work unless the condition was caused by the Owner or a separate contractor, employed by the Owner, and in that event the Owner or separate contractor shall be responsible for payment of such costs.

GC-12.2 CORRECTION OF WORK

GC-12.2.1 BEFORE OR AFTER SUBSTANTIAL COMPLETION

The Design-Builder shall promptly correct Work rejected by the Owner or failing to conform to the requirements of the Design-Build Documents, whether discovered before or after Substantial Completion and whether or not fabricated, installed or completed. Costs of correcting such rejected Work, including additional testing, shall be at the Design-Builder's expense.

GC-12.2.2 AFTER SUBSTANTIAL COMPLETION

In addition to the Design-Builder's obligations under Section GC-3.5, if, within the later of one (1) year after the later of the date of Substantial Completion of the Work or after the date for commencement of warranties established under the Design-Build Documents, or by terms of an applicable special warranty required by the Design-Build Documents including the special warranty applicable to Selected Equipment and Systems, any of the Work is found to be not in accordance with the requirements of the Design-Build Documents, the Design-Builder shall correct it with no change in the Cost of the Work according to the requirements of this Section GC-12.2 promptly after receipt of written notice from the Owner. If the Design-Builder does not initiate corrective Work within the timelines outlined below, the Owner may then proceed to correct the Work and dispose of materials and equipment as it sees fit, and the Design-Builder will be liable for all costs. This one-year correction period shall be extended with respect to portions of Work first performed after Final Acceptance and by corrective Work performed by the Design-Builder by the period of time between Substantial Completion and the actual performance of the Work. This obligation shall survive acceptance of the Work under the Contract and termination of the Contract, is in addition to other warranties provided by contract or law, and does not establish a time limit for damages.

GC-12.2.3 The Design-Builder shall remove from the site portions of the Work that are not in accordance with the requirements of the Design-Build Documents and that either are not corrected by the Design-Builder or accepted by the Owner.

GC-12.2.4 The Design-Builder shall bear the cost of correcting destroyed or damaged construction, whether completed or partially completed, of the Owner or separate contractors caused by the Design-Builder's correction or removal of Work that is not in accordance with the requirements of the Design-Build Documents.

GC-12.2.5 Nothing contained in this Section GC-12.2 shall be construed to establish a period of limitation with respect to other obligations the Design-Builder might have under the Design-Build Documents. Establishment of the one-year period for correction of Work as described in Section GC-12.2.2 relates only to the specific obligation of the Design-Builder to correct the Work, and has no relationship to the time within which the obligation to comply with the Design-Build Documents may be sought to be enforced, nor to the time within

which proceedings may be commenced to establish the Design-Builder's liability with respect to the Design-Builder's obligations other than specifically to correct the Work.

GC-12.3 ACCEPTANCE OF NONCONFORMING WORK

GC-12.3.1 If the Owner prefers to accept Work that is not in accordance with the requirements of the Design-Build Documents, the Owner may do so instead of requiring its removal and correction, in which case the GMP will be equitably adjusted by Change Order, in the Owner's sole discretion, by the greater of the (1) cost of correction or (2) diminution of value of the Work that is not in accordance with the requirements of the Design-Build Documents. Such adjustment shall be effected whether or not final payment has been made.

ARTICLE GC-13 MISCELLANEOUS PROVISIONS

GC-13.1 GOVERNING LAW AND VENUE

GC-13.1.1 The Design-Build Contract shall be governed by the internal law of the State of Washington, without regard to its choice-of-law provisions. The venue for any litigation arising out of the Design-Build Documents shall be in the Superior Court for the county in which the Project is located.

GC-13.2 SUCCESSORS AND ASSIGNS

GC-13.2.1 The Owner and Design-Builder 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 Design-Build Documents. Except as provided in Section GC-13.2.2, neither party to the Design-Build Contract shall assign the Design-Build Contract as a whole without written consent of the other. If either party attempts to make such an assignment without such consent, that party shall nevertheless remain legally responsible for all obligations under the Design-Build Documents. The Design-Builder also may not assign to any third party any Claims it may have against the Owner arising under this Contract or otherwise related to the Project, and any such attempted assignment shall be null and void.

GC-13.2.2 The Owner may, without consent of the Design-Builder, assign the Design-Build Contract to an entity providing construction financing for the Project. In such event, the entity shall assume the Owner's rights and obligations under the Design-Build Documents. The Design-Builder shall execute all consents reasonably required to facilitate such assignment.

GC-13.2.3 If a majority of the ownership or the control of Design-Builder is acquired by a third party, and such acquisition reasonably imperils performance or creates a conflict of interest that the Owner, in its sole discretion, cannot reasonably reconcile, then the Owner may terminate this Contract at any time pursuant to Section GC-14.2, except that the Owner shall give the Design-Builder thirty (30) days' written notice of termination and the opportunity for the Design-Builder to cure prior to termination.

GC-13.3 WRITTEN NOTICE

GC-13.3.1 All notices shall be in writing and shall be delivered to the Designated Representative or an officer of the Owner or Design-Builder, except notices and claims that shall be provided pursuant to Article 4. If such individuals are not reasonably available, notices may be sent by registered or certified mail to the last business address known to the party giving notice. The date of written notice shall be the earlier of the date of personal delivery or three (3) days after the date of postmark.

GC-13.4 RIGHTS AND REMEDIES

GC-13.4.1 Duties and obligations imposed by the Design-Build Documents and rights and remedies available thereunder shall be in addition to and not a limitation of duties, obligations, rights and remedies otherwise imposed or available by law. The Design-Builder's sole remedy for claims, disputes and other matters in question of the Design-Builder, direct or indirect, arising out of, or relating to, the Design-Build Contract or breach thereof, except claims that have been waived under the terms of the Design-Build Contract, however, is the dispute resolution procedure of Article GC-4.

GC-13.4.2 No action or failure to act by the Owner or Design-Builder shall constitute a waiver of a right or duty afforded them under the Design-Build Contract, nor shall such action or failure to act constitute approval of or acquiescence in a breach thereunder, except as may be specifically agreed in writing.

GC-13.4.3 If any portion of this Contract is held to be void or unenforceable, the remainder of the Design-Build Contract shall be enforceable without such portion.

GC-13.5 TESTS AND INSPECTIONS

GC-13.5.1 Tests, inspections and approvals of portions of the Work required by the Design-Build Documents or by laws, ordinances, rules, regulations or orders of public authorities having jurisdiction shall be made at an appropriate time. The Design-Builder shall plan and allow adequate time for all tests, inspections, and approvals, and shall not be entitled to an extension of the Contract Time for any delay associated with a test, inspection, or approval. Unless otherwise provided, the Design-Builder shall make arrangements for such tests, inspections and approvals with an independent testing laboratory or entity acceptable to or provided by the Owner or with the appropriate public authority, and the Owner shall bear all related costs of required tests, inspections and approvals, except that the Design-Builder will be responsible for any costs of retesting and any extra costs caused by the Design-Builder. The Design-Builder shall give the Owner timely notice of when and where tests and inspections are to be made so that the Owner may be present for such procedures. The independent testing agency shall prepare the test reports, logs and certificates applicable to the specific inspections and tests and promptly and simultaneously deliver the specified number of copies of them to the designated parties.

GC-13.5.2 If the Owner or public authorities having jurisdiction determine that portions of the Work require additional testing, inspection or approval not included under Section GC-13.5.1, the Owner shall in writing instruct the Design-Builder to make arrangements for such additional testing, inspection or approval by an entity acceptable to the Owner, and the Design-Builder shall give timely notice to the Owner of when and where tests and inspections are to be made so that the Owner may be present for such procedures. Such costs, except as provided in Section GC-13.5.3, shall be at the Owner's expense.

GC-13.5.3 If such procedures for testing, inspection or approval under Sections GC-13.5.1 and GC-13.5.2 reveal failure of the portions of the Work to comply with requirements established by the Design-Build Documents, all costs made necessary by such failure, including those of repeated procedures, shall be at the Design-Builder's expense.

GC-13.5.4 Required certificates of testing, inspection or approval shall, unless otherwise required by the Design-Build Documents, be secured by the Design-Builder and promptly delivered to the Owner.

GC-13.5.5 If the Owner is to observe tests, inspections or approvals required by the Design-Build Documents, the Owner will do so promptly and, where practicable, at the normal place of testing.

GC-13.5.6 Tests or inspections conducted pursuant to the Design-Build Documents shall be made promptly to avoid unreasonable delay in the Work. The Design-Builder shall provide the Owner with at least forty-eight (48) hours' written notice prior to all tests and inspections.

GC-13.5.7 If the Owner is responsible under the Design-Build Documents, law or regulation to pay for an inspection of any inspector, consultant or architect, the Owner shall be required to pay only for the first actual inspection. If the Design-Builder arranges for an inspection and an extra cost is incurred because the inspector is required to wait, to leave without inspecting, to perform a partial inspection, to return to complete or reinspect, or otherwise to expend time other than for the primary inspection, the Design-Builder shall be responsible for all such costs to the extent caused by the Design-Builder. If the Design-Builder does not pay the charges for which it is responsible within thirty (30) days of billing, the Owner may pay the charges directly and back charge the Design-Builder on the next progress payment for the amount paid plus a fifteen percent (15%) handling fee.

GC-13.5.8 No acceptance by the Owner of any Work shall be construed to result from any inspections, tests or failures to inspect or test by the Owner or any other person. No inspection, test, failure to inspect or test, or failure to discover any defect or nonconformity by the Owner or any other person shall relieve the Design-Builder of its responsibility for meeting the requirements of the Design-Build Documents or impair the Owner's right to reject defective or nonconforming items or right to avail itself of any other remedy to which the Owner may be entitled, notwithstanding the Owner's knowledge of the defect or nonconformity, its substantiality or the ease of its discovery. If the Owner is affirmatively aware that any Work does not meet the requirements of the Design-Build Documents, the Owner shall so notify the Design-Builder. Entities performing inspections

and/or testing do not have the authority to direct the Design-Builder's means and methods and are not agents or representatives of the Owner.

GC-13.6 COMMENCEMENT OF STATUTORY LIMITATION PERIOD
The Owner and Design-Builder shall commence all claims and causes of action, whether in contract, tort, breach of warranty or otherwise, against the other arising out of or related to the Contract in accordance with the requirements of the final dispute resolution method set forth in this Design-Build Contract, and within the time period specified by applicable law and the time limits identified in the Design-Build Documents, whichever is shorter. The Owner and Design-Builder waive all claims and causes of action not commenced in accordance with this Section GC-13.6.

GC-13.7 STATUTES AND OTHER REQUIREMENTS
The Design-Builder shall abide by the provisions of all applicable Washington statutes and regulations. Although a number of statutes are referenced in the Design-Build Documents, these references are not meant to be a complete list and should not be relied upon as such.

GC-13.7.1 Design-Builder Registration and Related Requirements. Pursuant to RCW 39.06, "Registration, Licensing of Contractors," the Design-Builder shall be registered and licensed as required by the laws of the State of Washington, including but not limited to RCW 18.27. The Design-Builder shall also have a current State unified business identifier number; have industrial insurance coverage for the Design-Builder's employees working in Washington as required in Title 51 RCW; have necessary licenses to perform the design work required by the Design-Build Documents; have an employment security department number as required in Title 50 RCW; have a State excise tax registration number as required in Title 82 RCW, and; not be disqualified from bidding on any public works contract under RCW 39.06.010 (unregistered or unlicensed contractors) or RCW 39.12.065(3) (prevailing wage violations).

GC-13.7.2 Law against Discrimination. The Design-Builder shall comply with pertinent statutory provisions relating to public works of RCW 49.60, "Discrimination."

GC-13.7.3 Provisions for Access. The Design-Builder shall comply with applicable provisions of RCW 70.92, "Provisions in Buildings for Aged and Handicapped Persons," the Washington Access Code, the Americans with Disabilities Act, and other accessibility laws, and shall defend, indemnify, and hold harmless the Owner from any actual or alleged violations of such laws.

GC-13.7.4 Safety Standards. The Design-Builder shall comply with pertinent provisions of RCW 49.17, "Washington Industrial Safety and Health Act," and Chapter 296-155 WAC, "Safety Standards for Construction Work."

GC-13.7.5 Unemployment Compensation. Pursuant to RCW 50.24, "Contributions by Employers," in general and RCW 50.24.130 in particular, the Design-Builder shall pay contributions for wages for personal services performed under this Contract or arrange for an acceptable bond.

GC-13.7.6 Drug-Free Workplace. The Design-Builder and all Subcontractors of any tier shall fully comply with all applicable federal, State, and local laws and regulations regarding drug-free workplace, including the Drug-Free Workplace Act of 1988. Any person not fit for duty for any reason, including the use of alcohol, controlled substances, or drugs, shall immediately be removed from the Work.

GC-13.7.7 Weapons-Free Environment. The Design-Builder and its employees, agents, and Subcontractors of any tier shall not bring onto the Project site or onto any Owner property any firearm or any other type of weapon described in either RCW 9.41.280(1) or RCW 9.41.250. Any person violating this Section shall immediately be removed from the Work, and such a violation shall be grounds for a termination of this Agreement for cause at the Owner's discretion.

GC-13.7.8 Asbestos Removal. To the extent this Project involves asbestos removal, the Design-Builder shall comply with Chapter 49.26 RCW, "Health and Safety – Asbestos," and any provisions of the Washington Administrative Code promulgated thereunder.

GC-13.7.9 Public Records and Confidential Information. Design-Builder acknowledges that the Owner is subject to the provisions of RCW 42.56 and that this Contract and all materials made available under or as a consequence of it (collectively for this Section called the "Materials"), shall be public records as defined in RCW 42.56.

ARTICLE GC-14 TERMINATION OR SUSPENSION OF THE DESIGN/BUILD CONTRACT

GC-14.1 TERMINATION BY THE DESIGN-BUILDER

GC-14.1.1 Except as provided by RCW 60.28.080, the Design-Builder may terminate the Design-Build Contract if the Work is stopped for a period of sixty (60) consecutive days for any of the following reasons through no act or fault of the Design-Builder or a Subcontractor of any tier or other persons or entities for whom the Design-Builder or a Subcontractor of any is responsible:

- **.1** issuance of an order of a court or other public authority having jurisdiction which requires all Work to be stopped;
- **.2** an act of government, such as a declaration of national emergency that requires all Work to be stopped; or
- **.3** the Owner has improperly failed to make payment to the Design-Builder of undisputed amounts in accordance with the Design-Build Documents.

GC-14.1.2 The Design-Builder may terminate the Design-Build Contract if, through no act or fault of the Design-Builder or a Subcontractor of any tier or their agents or employees or any other persons or entities performing portions of the Work under direct or indirect contract with the Design-Builder, repeated suspensions, delays or interruptions of the entire Work by the Owner, as described in Section GC-14.3, constitute in the aggregate more than one hundred percent (100%) of the total number of days scheduled for completion, or one hundred and twenty (120) days in any 365-day period, whichever is less.

GC-14.1.3 If one of the reasons described in Sections GC-14.1.1 or GC-14.1.2 exists, the Design-Builder may, upon an additional seven (7) days' written notice to the Owner (during which period the Owner shall have the right and opportunity to cure), terminate the Design-Build Contract and recover from the Owner payment for Work properly executed and reimbursable as a Cost of the Work, the Fee applicable to Work executed and reimbursable, and costs incurred by reason of such termination. The Owner may cure or commence to cure all defects within such seven (7) day period, in which case the Design-Builder may not terminate the Contract. The total recovery of the Design-Builder shall not exceed the unpaid balance of the GMP.

GC-14.2 TERMINATION BY THE OWNER FOR CAUSE

GC-14.2.1 The Owner may, upon seven (7) days' written notice to the Design-Builder, terminate (without prejudice to any right or remedy of the Owner) the whole or any portion of the Work or the Design-Build Contract for cause if the Design-Builder:

- **.1** refuses or fails to supply enough properly skilled workers or proper materials;
- **.2** fails to make prompt payment to the Design-Builder's Engineer or to a Subcontractor for services, materials or labor in accordance with the agreements between the Design-Builder and the Design-Builder's Engineer and Subcontractors;
- **.3** fails to comply with laws, ordinances, rules, regulations or orders applicable to the Work;
- **.4** fails to prosecute the Work or any portion thereof with sufficient diligence to ensure the Substantial Completion of the Work within the Contract Time;
- **.5** is adjudged bankrupt, makes a general assignment for the benefit of its creditors, or if a receiver is appointed on account of its insolvency; or
- **.6** staffs the Project with personnel different from the personnel listed in its proposal;
- **.7** fails to supply workers with relevant experience and sufficient skills, suitable materials or suitable equipment or performs Work of a lesser quality than specified in the Design-Build Documents;
- **.8** fails to provide the approved Statement of Intent to Pay Prevailing Wages, Affidavit of Wages Paid, or fails to provide and maintain in effect the insurance and bonds required by the Design-Build Documents;
- **.9** fails to comply with the conditions, Specifications or provisions of the Design-Build Documents;
- **.10** assigns the Contract or sublets Work without first obtaining the Owner's written permission;
- **.11** receives a Stop Work Directive and fails to take corrective action; or
- **.12** otherwise materially or substantially breaches or defaults under a provision of the Design-Build Contract.

GC-14.2.2 When any of the above reasons exist, the Owner may, without prejudice to any other rights or remedies, and after giving the Design-Builder and the Design-Builder's surety, if any, seven (7) days' written notice, terminate the Design-Builder on all or a portion of the Work and may, subject to any prior rights of the surety:

.1 exclude the Design-Builder from the site and take possession of all materials, equipment, tools, and construction equipment and machinery thereon provided for the Work;

.2 accept assignment of contracts pursuant to Section GC-5.5.1;

.3 finish the Work by whatever reasonable method the Owner may deem expedient. Upon written request of the Design-Builder, the Owner shall provide to the Design-Builder an accounting of the costs incurred by the Owner in finishing the Work; and

.4 take or direct any or all of the actions in Section GC-14.5.

GC-14.2.3 When the Owner terminates the Design-Build Contract for one of the reasons stated in Section GC-14.2.1, the Design-Builder shall not be entitled to receive further payment until the Work is finished.

GC-14.2.4 If the unpaid balance of the earned Contract Sum exceeds the cost of finishing the Work and other damages incurred by the Owner and not expressly waived, such excess shall be paid to the Design-Builder. If such costs and damages exceed the unpaid balance, the Design-Builder shall pay the difference to the Owner. The amount to be paid to the Design-Builder or Owner, as the case may be, shall survive termination of the Contract.

GC-14.2.5 If the Owner terminates only a portion of the Work, the Design-Builder shall continue to perform the remainder of the Work in accordance with the Design-Build Documents to the extent not terminated.

GC-14.2.6 If, after the Design-Builder has been terminated pursuant to this Section GC-14.2 or otherwise for cause, it is determined that insufficient grounds exist to terminate the contract for cause, then such termination shall be considered a termination for convenience pursuant to Section GC-14.4.

GC-14.3 SUSPENSION BY THE OWNER FOR CONVENIENCE

GC-14.3.1 The Owner may, without cause, order the Design-Builder in writing to suspend, delay or interrupt the Work in whole or in part for such period of time as the Owner may determine.

GC-14.3.2 The GMP and Contract Time shall be adjusted for changes in the cost and time caused by suspension, delay or interruption as described in Section GC-14.3.1. Adjustment of the GMP shall be consistent with the terms of the Design-Build Documents and include fee. No adjustment shall be made to the extent:

.1 that performance is, was or would have been so suspended, delayed or interrupted by another cause for which the Design-Builder is responsible; or

.2 that an equitable adjustment is made or denied under another provision of the Design-Build Contract.

GC-14.4 TERMINATION BY THE OWNER FOR CONVENIENCE

GC-14.4.1 The Owner may, at any time, terminate (without prejudice to any right or remedy of the Owner) the whole or any portion of the Design-Build Contract for the Owner's convenience and without cause.

GC-14.4.2 Upon receipt of written notice from the Owner of such termination for the Owner's convenience, the Design-Builder shall:

.1 cease operations as directed by the Owner in the notice;

.2 take actions necessary, or that the Owner may direct, for the protection and preservation of the Work; and

.3 except for Work directed to be performed prior to the effective date of termination stated in the notice, terminate all existing subcontracts and purchase orders and enter into no further subcontracts and purchase orders.

GC-14.4.3 In the event of termination for the Owner's convenience prior to commencement of construction, the Design-Builder shall be entitled to receive payment consistent with the Design-Build Documents for design services properly performed and costs necessarily incurred by reason of such termination but not for any

overhead or profit on the anticipated construction Work. In case of termination for the Owner's convenience after commencement of construction, the Design-Builder shall be entitled to receive payment consistent with the Design-Build Documents for Work properly executed and other costs necessarily incurred by reason of such termination (such as the cost of settling and paying claims arising out of the termination of subcontracts or purchase orders), along with a reasonable overhead and profit (not to exceed the Fee) on the Work executed. The total sum to be paid to the Design-Builder under this Section GC-14.4 shall not exceed the GMP as reduced by the amount of payments otherwise made, and as otherwise permitted by this Design-Build Contract. The amounts payable to the Design-Builder shall exclude the fair value of property which is destroyed, lost, stolen or damaged so as to become undeliverable to the Owner or to a buyer pursuant to Section GC-14.5.1.

GC-14.5 EFFECTS OF TERMINATION BY OWNER

GC-14.5.1 Unless the Owner directs otherwise, after receipt of a notice of termination from the Owner pursuant to Section GC-14.2 or 14.4, the Design-Builder shall promptly:

- **.1** stop Work under the Contract 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 any portion of the Work that is not terminated;
- **.3** procure cancellation of all purchase orders and subcontracts, upon terms acceptable to the Owner, to the extent that they relate to the performance of Work terminated;
- **.4** assign to the Owner all of the right, title and interest of the Design-Builder under all purchase orders and subcontracts, as directed by the Owner, in which case the Owner shall have the right, in its discretion, to settle or pay any or all claims arising out of the termination of such orders and subcontracts;
- **.5** with the Owner's approval, settle all outstanding liabilities and all claims arising out of such termination of orders and subcontracts not assigned to the Owner;
- **.6** transfer title and deliver to the entity or entities designated by the Owner all design documents, fabricated or unfabricated parts, Work in process, partially completed supplies and equipment, materials, parts, tools, dies, jigs and other fixtures, completed Work, supplies and other material produced as part of, or acquired in connection with the performance of, the Work terminated, and the completed or partially completed design documents, information and other property related to the Work;
- **.7** use its best efforts to sell any property of the types referred to in Section GC-14.5.1.6 which is not designated for transfer by the Owner pursuant to that Section. The Design-Builder shall not be required to extend credit to any buyer, and may acquire any such property under the conditions prescribed by and at a price or prices approved by the Owner, and the proceeds of any such transfer or disposition may be applied in reduction of any payments to be made by the Owner to the Design-Builder;
- **.8** take such action as may be necessary or as directed by the Owner to preserve and protect the Work and property related to this Project in the possession of the Design-Builder in which the Owner has an interest; and
- **.9** continue performance to the extent not terminated.

GC-14.5.2 In arriving at any amount due the Design-Builder after termination, the following deductions shall be made:

- **.1** all advance or other prior payments on account made to the Design-Builder applicable to the terminated portion of the Contract;
- **.2** any claim the Owner may have against the Design-Builder;
- **.3** an amount necessary to protect the Owner against outstanding or potential liens or claims; and
- **.4** the agreed price for or the proceeds of sale of any materials, suppliers or other things acquired by the Design-Builder or sold, pursuant to the provisions of Section GC-14.5.1.7, and not otherwise recovered by or credited to the Owner.

GC-14.5.3 If (and only if) the termination pursuant to Section GC-14.4 is partial, the Design-Builder may file a Claim for an equitable adjustment of the price or prices specified in the Contract relating to the continued portion of the Contract. Any claim by the Design-Builder for an equitable adjustment under this Section must be asserted within sixty (60) days from the effective date of the partial termination.

GC-14.5.4 The Design-Builder shall refund to the Owner any amounts paid by the Owner to the Design-Builder in excess of costs reimbursable under the Design-Build Documents.

GC-14.5.5 The Design-Builder shall, from the effective date of termination until the expiration of six (6) years after final settlement under this Contract, preserve and make available to the Owner, at all reasonable times at the office of the Design-Builder, and without charge to the Owner, all books, records, documents, photographs and other evidence bearing on the costs and expenses of the Design-Builder under this Contract and relating to the terminated Work. The Owner may have costs reimbursable under this Article 14 audited and certified by independent certified public accountants selected by the Owner, who shall have full access to all the books and records of the Design-Builder.

GC-14.5.6 In the event of any termination, or if the Owner and Design-Builder do not agree upon and execute a GMP Amendment, the Owner shall be entitled to use and/or assign the rights to use all finished or unfinished Instruments of Service and other materials, including the right to complete such Instruments of Service, and the Owner shall indemnify and hold harmless the Design-Builder, its consultants, agents and employees, from any claims arising from the Owner's subsequent use of such documents and other materials, except to the extent the Design-Builder is solely or concurrently negligent.

GC-14.5.7 The damages and relief from termination by the Owner specifically provided in Article 14 shall be the Design-Builder's sole entitlement in the event of termination.

GUARANTEED MAXIMUM PRICE AMENDMENT

This Guaranteed Maximum Price Amendment ("GMP Amendment") is made as of the ____ day of _____ in the year of Two Thousand and Twenty-_____ by and between:

the "Owner":

Northeast Public Development Authority
5006 N. Market Street
Spokane, Washington 99217

and the "Design-Builder":

Bouten Construction Company
P.O. Box 3507
627 N. Napa Street
Spokane, Washington 99202

for the following design-build project (the "Project"):

3011 Wellesley Mixed Use Development
3011 E. Wellesley Avenue
Spokane, Washington 99217

The Owner and Design-Builder agree as follows:

ARTICLE A.1
A.1.1 Guaranteed Maximum Price
Pursuant to Section 4.1.2 of the Agreement, the Owner and Design-Builder hereby amend the Agreement to establish a Guaranteed Maximum Price. As agreed by the Owner and Design-Builder, the Guaranteed Maximum Price is an amount that the Contract Sum shall not exceed. The Design-Builder represents to the Owner that the Contract Time is adequate for full performance of the Work.

A.1.1.1 The Contract Sum is guaranteed by the Design-Builder not to exceed _____ Dollars ($_____), subject to additions and deductions by Change Order as provided in the Design-Build Documents.

A.1.1.2 Itemized Statement of the Guaranteed Maximum Price. Provided below is an itemized statement of the Guaranteed Maximum Price organized by trade categories, allowances, contingencies, alternates, the Design-Builder's Fee, and other items that comprise the Guaranteed Maximum Price:

_____

A.1.1.3 The Guaranteed Maximum Price is based on the following alternates, if any, which are described in the Design-Build Documents and are hereby accepted by the Owner:

_____

A.1.1.4 Allowances included in the Guaranteed Maximum Price, if any:

Item	Price

A.1.1.5 Unit Prices included in the Guaranteed Maximum Price, if any:

Item	Units	Price per Unit

A.1.1.6 Assumptions, if any, on which the Guaranteed Maximum Price is based:

_____

A.1.1.7 The Guaranteed Maximum Price is based upon the following Supplementary and other Conditions of the Contract, if any:

_____

A.1.1.8 The Guaranteed Maximum Price is based upon the following Specifications:

_____

A.1.1.9 The Guaranteed Maximum Price is based upon the following Drawings:

_____

A.1.1.10 The Guaranteed Maximum Price includes the Design-Builder's Contingency which was calculated as follows:

_____

A.1.1.11 The Guaranteed Maximum Price is based upon the following other documents and information, if any:

_____

ARTICLE A.2

A.2.1 Pursuant to Section 3.3 of the Agreement, the required date of Substantial Completion established by this GMP Amendment is _____, 20___.

A.2.2 Liquidated Damages and Time.

Pursuant to Section 3.4 of the Agreement, if the Design-Builder fails to achieve Substantial Completion by the required date of Substantial Completion, the Owner will sustain significant damage and loss as a result of such failure. The exact amount of such damages will be difficult to ascertain, therefore, the Owner and the Design-Builder agree as follows:

If the Design-Builder fails to achieve Substantial Completion by the required date of Substantial Completion date, and as otherwise required by the Design-Build Documents, the Owner shall be entitled to retain or recover from the Design-Builder, as liquidated damages and not as a penalty, _____ Dollars ($_____) per calendar day commencing upon the first day following the required date of Substantial Completion in Section A.2.1 above and continuing until the actual date that Substantial Completion is achieved. Such liquidated damages are hereby agreed to be a reasonable pre-estimate of damages the Owner will incur as a result of delayed completion of the Work. The liquidated damages shall be Owner's sole and exclusive remedy for delay.

Northeast Public Development Authority	**Bouten Construction Company**
OWNER (Signature)	**DESIGN-BUILDER** (Signature)
(Printed name and title)	(Printed name and title)

Northeast Public Development Authority
Profit & Loss YTD Comparison
August 2026

	Aug 26	Jan - Aug 26
Ordinary Income/Expense		
Income		
3340580 · Arts Commission Awards		
ArtsWA-HCD Stipend FY 27	0.00	4,750.00
ArtsWA-HCD Capital Wayfinding	0.00	9,375.00
ArtsWA-HCD Capital Murals	0.00	9,375.00
Total 3340580 · Arts Commission Awards	0.00	23,500.00
3340310 · State Award/Dept of Ecology		
Department of Ecology-OBC Reimb	0.00	86,525.27
Total 3340310 · State Award/Dept of Ecology	0.00	86,525.27
367000 · Contributions/Donations Non Gvt		
Donation - Creative District	200.00	3,200.00
Total 367000 · Contributions/Donations Non Gvt	200.00	3,200.00
3614000 · Money Market Interest	397.40	8,554.57
337000 · Local Grants, Entitlements		
3370040 · Property Taxes	8,471.48	389,348.31
3370300 · New Construction Tax - County	0.00	17,295.05
3370010 · Retail Sales Tax - County	0.00	22,015.23
3370011 · Retail Sales Tax - City	0.00	81,270.32
3370070 · Utility Tax Income	0.00	2,335.14
3370075 · SPIF Interest	5,193.40	37,945.46
337001 · Miscellaneous Income		
3370266 · ARPA-ND HCD Programming Grant	43,818.34	74,940.94
3370151 · Ticketing Revenue	1,941.03	3,450.00
3370063 · ARPA Grant Management Reimb	3,787.50	4,837.50
3370105 · CERB Planning Grant	0.00	31,200.00
3370125 · Grant Admin	2,306.23	9,473.44
3370272 · ARPA-ND 3rd Thu-Agr #2	0.00	8,341.02
Total 337001 · Miscellaneous Income	51,853.10	132,242.90
Total 337000 · Local Grants, Entitlements	65,517.98	682,452.41
Total Income	66,115.38	804,232.25
Expense		
ARPA Hillyard Facade Expense	1,069.78	13,943.58
5593114 · Creative District Expense		
5593128 · ARPA-ND HCD Expense-2026	55,302.31	141,482.84
5593127 · HCD-Grant Mgmnt	1,612.50	6,450.00
5593124 · ARPA-ND Program Rev Exp	0.00	698.70
5593122 · Nbhood Dist (ARPA) Mural Exp	17,425.36	17,425.36
5593121 · ArtsWA-HCD Capital Mural Exp	1,261.77	4,619.09
5593119 · ArtsWA-Yearly Stipend Expense	0.00	468.93
Total 5593114 · Creative District Expense	75,601.94	171,144.92
Goodwill & Community Support		
Streetscape Maintenance	1,638.35	8,710.24
Community Support	0.00	1,000.00
Total Goodwill & Community Support	1,638.35	9,710.24
Projects & Initiatives		
HiJinx Parade 2026	7,044.30	12,320.91
3011 Wellesley development		
WA Commerce ELF	3,800.00	6,200.00
PDB Team Costs	8,517.20	11,321.60
Other Consultants	0.00	40,891.92
3011 Wellesley development - Other	630.00	7,783.49
Total 3011 Wellesley development	12,947.20	66,197.01

Northeast Public Development Authority
Profit & Loss YTD Comparison
August 2026

	Aug 26	Jan - Aug 26
CERB Study		
Reimbursed Consultant Costs	6,000.00	65,000.00
Total CERB Study	6,000.00	65,000.00
ARPA Facade Improvement Grant 1	20,000.00	36,311.68
Myrtle Rd 2025 (OBC)	4,987.50	119,196.12
Esmeralda Comm Pk (Stgc Funds)	0.00	593,750.00
Total Projects & Initiatives	50,979.00	892,775.72
5593129 · ARPA-ND HCD Expense-2025	0.00	1,675.17
3112 E Olympic Development	4,933.34	7,435.01
Personnel		
5587010 · Payroll Expenses		
Salaries	24,761.54	186,492.20
457(b) Employer	1,743.92	14,464.97
WA Cares Expense	0.00	-0.05
FICA	384.32	2,918.83
SUTA	183.96	1,239.09
PFML	0.00	0.11
L&I	41.40	518.79
FUTA	0.00	126.00
Total 5587010 · Payroll Expenses	27,115.14	205,759.94
5587020 · Health Insurance	4,717.70	35,621.92
Total Personnel	31,832.84	241,381.86
5587030 · Office Supplies & Software		
Website	604.58	2,607.22
Software & Licenses	124.98	29,592.07
Internet Service	50.00	1,413.80
Rent & Lease	1,600.00	26,400.00
Office Supplies/Expenses	593.93	6,398.02
5587030 · Office Supplies & Software - Other	0.00	316.32
Total 5587030 · Office Supplies & Software	2,973.49	66,727.43
5587040 · Professional/Personal Services		
Other Business Expenses		
Travel		
Parking	17.95	202.39
Conference, Convention, Meeting	0.00	4,764.94
Meals & Travel	72.14	5,189.06
Travel - Other	0.00	167.24
Total Travel	90.09	10,323.63
Tax & Licenses	0.00	-839.38
Dues & Subscriptions	0.00	941.66
Total Other Business Expenses	90.09	10,425.91
Grant Support	0.00	13,205.55
Payroll Direct Deposit Fees	69.52	350.80
SPIF Management Fee	39.22	264.73
Consulting	0.00	-173.26
Accounting Fees	0.00	11,826.21
Advertising & Marketing	3,034.64	38,415.65
Legal Fees	2,421.50	9,834.00
Total 5587040 · Professional/Personal Services	5,654.97	84,149.59
Total Expense	174,683.71	1,488,943.52
Net Ordinary Income	-108,568.33	-684,711.27

Northeast Public Development Authority
Profit & Loss YTD Comparison
August 2026

	Aug 26	Jan - Aug 26
Other Income/Expense		
Other Income		
US Bank CC Rebate	200.11	458.59
Total Other Income	200.11	458.59
Net Other Income	200.11	458.59
Net Income	**-108,368.22**	**-684,252.68**

These financial statements have not been subjected to an audit or review or compilation engagement, and no assurance is provided on them. The financial statements omit substantially all of the disclosures, and the statement of cash flows, required by accounting principles generally accepted in the United States of America.

Northeast Public Development Authority
Balance Sheet
As of August 31, 2026

	Aug 31, 26
ASSETS	
Current Assets	
Checking/Savings	
1115000 · Money Market 0678	357,524.85
1114000 · Spokane County Investment Pool	1,544,931.99
1111000 · 1111000 Checking WTB 0582	25,827.48
Total Checking/Savings	1,928,284.32
Total Current Assets	1,928,284.32
Fixed Assets	
3011 Wellesley	147,080.00
3112 Olympic	221,437.78
Total Fixed Assets	368,517.78
TOTAL ASSETS	**2,296,802.10**
LIABILITIES & EQUITY	
Liabilities	
Current Liabilities	
Accounts Payable	
20000 · Accounts Payable	-8,775.00
Total Accounts Payable	-8,775.00
Credit Cards	
2003 · US Bank CC-Kelly	127.81
2002 · US Bank CC-Jesse	504.53
2001 · US Bank CC-Jared	100.85
Total Credit Cards	733.19
Other Current Liabilities	
2110 · Direct Deposit Liabilities	125.40
24000 · Payroll Liabilities	
Med/Dental/Vision	748.32
Medicare	192.16
Federal WH Tax	1,309.00
457(b) Employer	871.96
457(b) Employee	416.85
WA Cares	352.19
L&I	83.67
FICA	192.16
SUTA	435.28
PFMLA	489.65
Total 24000 · Payroll Liabilities	5,091.24
Total Other Current Liabilities	5,216.64
Total Current Liabilities	-2,825.17
Total Liabilities	-2,825.17
Equity	
32000 · Unrestricted Net Assets	2,983,879.95
Net Income	-684,252.68
Total Equity	2,299,627.27
TOTAL LIABILITIES & EQUITY	**2,296,802.10**

These financial statements have not been subjected to an audit or review or compilation engagement, and no assurance is provided on them. The financial statements omit substantially all of the disclosures, and the statement of cash flows, required by accounting principles generally accepted in the United States of America.