

**CITY OF TILLAMOOK
CITY SEWER REHABILITATION PROJECT
ARCHITECTURAL/ENGINEERING SERVICES CONTRACT**

This Contract is by and between the City of Tillamook ("City") and _____ ("Architect/Engineer") for the performance of architectural/engineering services for City.

A. RECITALS

City is in need of retaining the services of a qualified architect/engineer to design and oversee construction of improvements to the City's sanitary collection system ("Project").

On _____, 2020__, the City awarded this Contract to _____, based upon its proposal dated _____, 2020__.

B. CONTRACT EXHIBITS

The following exhibits are hereby incorporated by reference into this Contract:

- Exhibit A – Scope of Work
- Exhibit B – Oregon Architect/Engineer Public Contracting Code Requirements
- Exhibit C – City's Request for Proposals for Architectural/Engineering Services
- Exhibit D – Architect/Engineer's Proposal and Schedule of Rates and Charges
- Exhibit E – Grant Exhibit 5E
- Exhibit F – Grant Exhibit 6E

In the event of a conflict, the terms of this Agreement shall govern, followed by Exhibits E and F, then A, B, C, and D, in that order.

C. CONTRACT

1. Term

This Contract shall commence upon execution, and continue through final completion of Project, but no later than _____, 20__.

2. Scope of Work

Architect/Engineer shall provide Construction Contract Administration (CA) and Construction Engineering and Inspection (CEI) services necessary to meet City Standards. Architect/Engineer shall monitor the work of the Construction Contractor (CC) to document the work and compile the results of the CC's Quality Control program to ensure all documentation complies with approved plans and specifications. Consultant shall meet the requirements of the Grant Exhibit 5E, attached hereto as Exhibit E.

CA/CEI work tasks typically include supporting team lead in project/team management, contract management, construction review of CC submittals, construction inspection, quality and quantity assurance documentation, and record drawings necessary for completion of the project. Architect/Engineer shall provide all services and deliver all materials as specified in the attached Exhibits, and as may be described by future addenda to this Contract.

A preconstruction conference will be held, and in conformance with Business Oregon preconstruction meeting checklist, see Exhibit F. The preconstruction conference will be held with City and CC to discuss schedule, utility involvement, required documentation submittals,

safety plan, compliance with environmental clearances, and other items relevant to the construction of the project.

3. Compensation

3.1 Compensation. Architect/Engineer will be paid by City on a time and materials basis, for work actually completed and invoiced as described in this section. Architect/Engineer shall complete its scope of work as defined in Exhibit A for up to a total not to exceed amount, including reimbursable expenses, of _____ (\$_____). This maximum contract amount shall function as a limit on City contract payments. Architect/Engineer will not be entitled to receive as payment from City the difference between amounts invoiced for work completed and the maximum Contract amount provided in this section, if any.

3.2 Invoices. Payments shall be based upon monthly invoices which Architect/Engineer shall submit to the City, detailing the previous months' fees, costs and percentage of the Project completed at that time. Upon request, Architect/Engineer will provide the City representative with documents, records, and draft plans evidencing the progress made on the Project to date. Architect/Engineer shall send invoices to City's representative at City's address set forth in Section 5. In the event of non-payment due to a fee dispute between the parties, Architect/Engineer shall continue to provide Contract services to City.

3.3 Reimbursable Expenses. Reimbursable expenses shall be itemized and include expenses incurred in the interest of the Project for: 1) Long distance communications; 2) Reproductions, presentations and work session handouts or other materials; 3) Postage and handling of documents; and 4) Expense of overtime work requiring higher than regular rates, if authorized by City.

4. Contractor Is an Independent Contractor

Architect/Engineer shall be an independent contractor for all purposes and shall be entitled to no compensation other than the compensation provided for under this Contract. While City reserves the right to set various schedules and evaluate the quality of Architect/Engineer's completed work, City cannot and will not control the means and manner of Architect/Engineer's performance. Architect/Engineer is responsible for determining the appropriate means and manner of performing work. Architect/Engineer is responsible for all federal and state taxes applicable to compensation and payment paid to Architect/Engineer under the Contract and will not have any amounts withheld by City to cover Architect/Engineer's tax obligations. Architect/Engineer is not eligible for any City fringe benefit plans.

5. Notices

All notices provided for hereunder shall be in writing and shall be deemed to be duly served on the date of delivery if delivered in person, when receipt of transmission is generated by the transmitting facsimile machine if delivered by facsimile transmission, on the day after deposit if delivered by overnight courier, or three days after deposit if delivered by placing in the U.S. mail, first-class, postage prepaid. Any notice delivered by facsimile transmission shall be followed by a hard copy. All notices shall be addressed as follows:

City: Liane Welch, City Engineer
City of Tillamook
2211 3rd Street, Suite A
Tillamook, Oregon 97141
Telephone: (503) 812-4618
Email: lwelch@tillamookor.gov

Architect/Engineer: _____

6. Indemnification

Architect/Engineer shall indemnify, hold harmless, and defend City and its representatives, officers, directors, and employees from any loss or claim made by third parties, including legal fees and costs of defending actions or suits resulting directly or indirectly from Architect/Engineer's negligent performance and/or fault of Architect/Engineer, its employees, representatives, or subcontractors. If the loss or claim is caused by the joint concurrent negligence or other fault of City and Architect/Engineer, the loss or claim shall be borne by each in proportion to the degree of negligence or other fault attributable to each.

Architect/Engineer shall defend City from claims covered under this section at Architect/Engineer's sole cost and expense until such time: (1) as an arbitration panel or a court of competent jurisdiction determines that City is liable in whole or in part for the loss or claim caused by City's negligence; or (2) until City and Architect/Engineer mutually agree to allocate the liability.

Architect/Engineer's indemnification obligations under this Section 6 shall survive the expiration or earlier termination of this Contract.

7. Insurance Requirements

7.1 During the term of this Contract, Architect/Engineer shall maintain, at its own expense, the following types of insurance in the following amounts:

- a. Comprehensive general liability insurance on Insurance Services Office (ISO) occurrence form CG 00 01, including coverage for premises operations, independent contractors, protected products, completed operations, contractual liability, personal injury, and broad form for property damage (including coverage for explosion, collapse, and underground hazards):

- \$2,000,000 – each occurrence (bodily injury)
 - \$5,000,000 – general aggregate
 - \$2,000,000 – property damage, contractual, etc.

Coverage shall also include contractual liability coverage for the indemnity provided under this Contract. (Proof of coverage will be attached to this Contract).

- b. Workers' Compensation and employer's liability insurance per ORS Chapter 656. The employer's liability limit shall not be less than \$1,000,000 per occurrence. (Proof of coverage will be attached to this Contract).
- c. Errors and Omissions insurance covering Architect/Engineer's liability arising out of negligent acts, errors or omissions in its performance of work or services under this Contract. Such policy will have a combined single limit of not less than \$2,000,000 per each claim, incident or occurrence for the term of the Project. Such policy will be on a claims made basis and will have an extended claims reporting period of six (6) years after final completion. (Proof of coverage will be attached to this Contract).

- d. The limits required in this Section 7.1 may be met with a combination of underlying and umbrella coverage.
- 7.2 Except as required in 7.1(d) above, if any of the above required insurance is arranged on a "claims made" basis, "tail" coverage will be required at final completion or termination of this Contract for a duration of two (2) years.
- 7.3 Policies shall provide that City, its Council, officers, representatives, employees, and agents will be included as an additional insured with respect to the coverages required in Section 7.1(a) and a waiver of subrogation against them shall be obtained for all coverages.
- 7.4 All coverages under Section 7.1 shall be primary over any insurance City may carry on its own.
- 7.5 City shall be solely responsible for any loss, damage or destruction to its own property, equipment, and materials used in conjunction with the work or services under this Contract if the loss, damage or destruction is due to the City's negligence or fault.
- 7.6 All policies of insurance shall be issued by good, responsible companies with a rating acceptable to the City and that are qualified to do business in the State of Oregon.
- 7.7 Architect/Engineer shall furnish City with certificates of insurance evidencing all required coverages prior to commencing any work or services under this Contract. If requested by City, Architect/Engineer shall furnish City with executed copies of such policies of insurance. Architect/Engineer shall furnish City with at least 30 days' written notice of cancellation of, or any modification to, the required insurance coverages. Failure to maintain any required insurance coverages in the minimum required amounts shall constitute a material breach of this Contract and shall be grounds for immediate termination of this Contract.

8. Workers' Compensation

- 8.1 Architect/Engineer, its subcontractors, if any, and all employers working under this Contract are subject employers under the Oregon Workers' Compensation Law and shall comply with ORS 656.017, which requires them to provide workers' compensation coverage for all subject workers.
- 8.2 Architect/Engineer warrants that all persons engaged in Contract work and subject to the Oregon Workers' Compensation Law are covered by a workers' compensation plan or insurance policy that fully complies with Oregon law. Architect/Engineer shall indemnify City for any liability incurred by City as a result of Architect/Engineer's breach of the warranty under this paragraph.

9. Hours of Employment

Architect/Engineer shall comply with all applicable state and federal laws regarding employment.

10. Assignment

Architect/Engineer may not assign any of its responsibilities under this Contract without City's prior written consent, which consent may be withheld in City's sole discretion. Architect/Engineer may not subcontract for performance of any of its responsibilities under this Contract without City's prior written consent, which consent shall not be unreasonably withheld. Architect/Engineer's assigning or subcontracting of any of its responsibilities under the Contract without City's consent shall constitute a material breach of this Contract. Regardless of any

assignment or subcontract, Architect/Engineer shall remain liable for all of its obligations under this Contract.

11. Labor and Material

Architect/Engineer shall provide and pay for all labor, materials, equipment, tools, water, heat, utilities, transportation, and other facilities and services necessary for the proper execution and completion of all Contract work, all at no cost to City other than the compensation provided in this Contract.

12. Ownership of Work and Documents

All work performed by Architect/Engineer and compensated by City pursuant to this Contract shall be the property of City upon full compensation for that work performed or document produced to Architect/Engineer, and it is agreed by the parties that such documents are works made for hire. Architect/Engineer hereby conveys, transfers and grants to City all rights of reproduction and the copyright to all such documents. However, in the event City reuses or modifies any materials furnished to City by Architect/Engineer, without Architect/Engineer's involvement or consent, then Architect/Engineer shall not be responsible for the materials.

13. Termination for Convenience

This Contract may be terminated by mutual consent of the parties upon written notice. In addition, City may terminate all or part of this Contract upon determining that termination is in the best interest of City by giving seven (7) days' prior written notice of intent to terminate, without waiving any claims or remedies it may have against Architect/Engineer. Upon termination under this paragraph, Architect/Engineer shall be entitled to payment in accordance with the terms of this Contract for Contract work completed and accepted before termination less previous amounts paid and any claim(s) City has against Architect/Engineer. Pursuant to this paragraph, Architect/Engineer shall submit an itemized invoice for all unreimbursed Contract work completed before termination and all Contract closeout costs actually incurred by Architect/Engineer. City shall not be liable for any costs invoiced later than thirty (30) days after termination unless Architect/Engineer can show good cause beyond its control for the delay.

14. Termination for Cause

City may terminate this Contract effective upon delivery of written notice to Architect/Engineer, or at such later date as may be established by City, under any of the following conditions:

- 14.1 If City funding is not obtained and continued at levels sufficient to allow for purchases of the indicated quantity of services. The Contract may be modified to accommodate a reduction in funds.
- 14.2 If federal or state regulations or guidelines are modified, changed, or interpreted in such a way that the services are no longer allowable or appropriate for purchase under this Contract or are no longer eligible for the funding proposed for payments authorized by this Contract.
- 14.3 If any license or certificate required by law or regulation to be held by Architect/Engineer to provide the services required by this Contract is for any reason denied, revoked, or not renewed.

15. Termination for Default

If the City fails to perform in the manner called for in this Contract or if the City fails to comply with any other provisions of the Contract, the Architect/Engineer may terminate this Contract for default after giving the City the notice and opportunity to cure required by this paragraph. Prior to

termination for default, Architect/Engineer must give the City written notice of the breach and of the Architect/Engineer's intent to terminate. If City has not entirely cured the breach within fifteen (15) days of the date of the notice, then Architect/Engineer may terminate the Contract at any time thereafter by giving a written notice of termination.

If Architect/Engineer fails to perform in the manner called for in this Contract or if Architect/Engineer fails to comply with any other provisions of the Contract, City may terminate this Contract for default. Termination shall be effected by serving a notice of termination on Architect/Engineer setting forth the manner in which Architect/Engineer is in default. Architect/Engineer shall be paid the Contract price only for services performed in accordance with the manner of performance as set forth in this Contract.

16. Remedies

In the event of breach of this Contract the parties shall have the following remedies:

- 16.1 If terminated under paragraph 15 by City due to a breach by Architect/Engineer, City may complete the work either itself, by agreement with another contractor, or by a combination thereof. If the cost of completing the work exceeds the remaining unpaid balance of the total compensation provided under this Contract, then Architect/Engineer shall pay to City the amount of the reasonable excess.
- 16.2 In addition to the above remedies for a breach by Architect/Engineer, City also shall be entitled to any other equitable and legal remedies that are available.
- 16.3 If City breaches this Contract, Architect/Engineer's remedy shall be limited to termination of the Contract and receipt of Contract payments to which Architect/Engineer is entitled.
- 16.4 City shall not be liable for any indirect, incidental, consequential, or special damages under the Contract or any damages arising solely from terminating the Contract in accordance with its terms.
- 16.5 Upon receiving a notice of termination, and except as otherwise directed in writing by City, Architect/Engineer shall immediately cease all activities related to the services and work under this Contract. As directed by City, Architect/Engineer shall, upon termination, deliver to City all then existing work product that, if the Contract had been completed, would be required to be delivered to City.

17. Nondiscrimination

During the term of this Contract, Architect/Engineer shall not discriminate against any employee or applicant for employment because of race, religion, color, sex, age, or national origin.

18. Governing Law; Jurisdiction; Venue

This Contract shall be governed by and construed in accordance with the laws of the State of Oregon without regard to principles of conflicts of law. Any claim, action, suit or proceeding (collectively "Claim") between City and Architect/Engineer that arises from or relates to this Contract which results in litigation shall be brought and conducted solely and exclusively within the Circuit Court of Tillamook County for the State of Oregon; provided, however, if a Claim must be brought in a federal forum, then it shall be brought and conducted solely and exclusively within the United States District Court for the District of Oregon. ARCHITECT/ENGINEER BY EXECUTION OF THIS CONTRACT, HEREBY CONSENTS TO THE IN PERSONAM JURISDICTION OF SAID COURTS. Nothing herein shall be construed as a waiver of City's protections under the Oregon Tort Claims Act.

19. Compliance with Laws and Regulations

Architect/Engineer shall comply with all federal, state and local laws, regulations, executive orders and ordinances applicable to the services under this Contract. Without limiting the generality of the foregoing, Architect/Engineer expressly agrees to comply with: (i) ORS 659.425; (ii) all regulations and administrative rules established pursuant to the foregoing laws; and (iii) City's performance under this Contract is conditioned upon Architect/Engineer's compliance with all applicable provisions of the Oregon Public Contracting Code, as more particularly set forth in Exhibit B and incorporated herein by this reference. Architect/Engineer, its subconsultants, and all employers providing work, labor, or materials under this Contract are subject employers under the Oregon workers' compensation law and shall comply with ORS 656.017, which requires them to provide Oregon workers' compensation coverage that satisfies Oregon law for all their subject workers. Architect/Engineer shall adhere to all safety standards and regulations established by City for work performed on its premises or under its auspices.

20. Experience, Capabilities and Resources

By execution of this Contract, Architect agrees that:

- 20.1 Architect/Engineer is an experienced architectural firm having the skill, legal capacity, and professional ability necessary to perform all the services required under this Contract and to design or administer any work within the scope and complexity contemplated by this Contract.
- 20.2 Architect/Engineer has the capabilities and resources necessary to perform the obligations of this Contract.
- 20.3 Architect/Engineer is familiar with all current laws, rules, and regulations which are applicable to the design and construction of work which may fall within the scope of this Contract, and that all drawings, specifications, and other documents prepared by Architect/Engineer shall be prepared in accordance with the standard of care of other professionals performing similar services under similar conditions and in an effort to accurately reflect and incorporate all such laws, rules, and regulations.

21. Drawings, Specifications and Other Documents

Architect/Engineer hereby agrees that it will, in a manner consistent with its standard of care defined in above in Section 20, prepare all drawings, specifications, and other documents pursuant to this Contract so that they are complete and that any project, if constructed in accordance with the intent established by such drawings, specifications, and other documents, shall be structurally sound and a complete and properly functioning facility.

22. Errors and Omissions

Architect/Engineer shall be responsible for correcting any errors or omissions in the drawings, specifications, and/or other documents which deviate from the standard of care set forth in Section 21. Architect/Engineer shall correct at no additional cost to City any and all such errors and omissions in the drawings, specifications, and other documents prepared by Architect/Engineer or its subconsultants. Architect/Engineer further agrees to assist City in resolving problems relating to any project designs or specified materials. Architect's warranties and obligations under Sections 20-22 of this Contract shall survive the expiration or earlier termination of this Contract.

23. Contract Performance

Architect/Engineer shall at all times carry on the services diligently, without delay and punctually fulfill all requirements herein. Architect/Engineer shall not be liable for delays that are beyond Architect/Engineer's control. Contract expiration shall not extinguish, prejudice, or limit either party's right to enforce this Contract with respect to any breach of Architect/Engineer's warranties or a default or defect in performance by Architect/Engineer that has not been cured. Architect/Engineer agrees that time is of the essence under this Contract.

24. Access to Records

For not less than five (5) years after the Contract expiration and for the purpose of making audit, examination, excerpts, and transcripts, City, and its duly authorized representatives shall have access to Architect/Engineer's books, documents, papers, and records that are pertinent to this Contract. If, for any reason, any part of this Contract, or any resulting construction contract(s) is involved in litigation, Architect/Engineer shall retain all pertinent records for not less than five (5) years or until all litigation is resolved, whichever is longer. Architect/Engineer shall provide full access to these records to City, and its duly authorized representatives in preparation for and during litigation.

25. Representations and Warranties

25.1 Architect/Engineer represents and warrants to City that:

25.1.1 Architect/Engineer has the power and authority to enter into and perform this Contract;

25.1.2 When executed and delivered, this Contract shall be a valid and binding obligation of Architect/Engineer enforceable in accordance with its terms;

25.1.3 Architect/Engineer shall, at all times during the term of this Contract, be duly licensed to perform the services, and if there is no licensing requirement for the profession or services, be duly qualified and competent; and

25.1.4 The services under this Contract shall be performed in accordance with the professional skill, care and standards of other professionals performing similar services under similar conditions.

25.2 The warranties set forth in this section are in addition to, and not in lieu of, any other warranties provided.

26. City Obligations

26.1 City shall provide full information in a timely manner regarding requirements for and limitations on projects and work tasks. With regard to subcontractor liens, City shall furnish to Architect/Engineer, within fifteen (15) days after receipt of a written request, information necessary and relevant for Architect/Engineer to evaluate, give notice of, or enforce lien.

26.2 City shall establish and update, if necessary, overall project budgets, including Architecture/Engineering and construction costs.

26.3 City shall furnish the services of consultants, including geotechnical architects/engineers, when such services are requested by Architect/Engineer, reasonably required by the scope of a project, and agreed to by City.

26.4 City shall furnish all testing as required by law or the Contract documents.

- 26.5 City shall furnish all legal accounting, auditing and insurance services as necessary for projects to meet the City's needs and interests, after Architect/Engineer has performed requisite project management and oversight duties.
- 26.6 City shall provide prompt written notice to Architect/Engineer if City becomes aware of any fault or defect in a project, including any errors, omissions or inconsistencies in Architect/Engineer's design or performance under the Contract.
- 26.7 City shall pay Architect/Engineer in accordance with paragraph 3 and Exhibit C of this Contract, upon receipt of Architect/Engineer's submission of monthly invoices, and satisfactory progress and performance made in accordance with the scope of work. Payments shall reflect work completed, or progress made on a project to date, on a pro rata basis.
- 26.8 City shall report the total amount of all payments to Architect/Engineer, including any expenses, in accordance with federal Internal Revenue Service and State of Oregon Department of Revenue regulations.
- 26.9 City shall guarantee access to, and make all provisions for Architect/Engineer to enter upon public and private property necessary for performance of the Scope of Work over which City exercises control.
- 26.10 Extra work or work on contingency tasks is not permitted unless authorized by the City in writing. Failure of Architect/Engineer to secure written authorization for extra work shall constitute a waiver of all rights to an adjustment in the Contract price or Contract time.

27. Arbitration

- 27.1 All claims, disputes, and other matters in question between the City and Architect/Engineer arising out of, or relating to this Contract, including rescission, reformation, enforcement, or the breach thereof except for claims which may have been waived by the making or acceptance of final payment, may be decided by binding arbitration in City's sole discretion, in accordance with Uniform Oregon Arbitration Act ORS 36.600 et seq. and any additional rules mutually agreed to by both parties. If the parties cannot agree on rules within ten (10) days after the notice of demand, the presiding judge of the Tillamook County Circuit Court will establish rules to govern the arbitration. The City shall have the sole discretion as to whether or not dispute will be decided by arbitration rather than through the court process.
- 27.2 A claim by Engineer arising out of, or relating to this Contract must be made in writing and delivered to the City not less than 30 days after the date of the occurrence giving rise to the claim. Failure to file a claim with the City within 30 days of the date of the occurrence that gave rise to the claim shall constitute a waiver of the claim. A claim filed with the City will be considered by the City Council at the Council's next regularly scheduled meeting. At that meeting the Council will render a written decision approving or denying the claim. If the claim is denied by the Council, the Engineer may file a written request for arbitration with the City. No demand for arbitration shall be effective until the City Council has rendered a written decision denying the underlying claim. No demand for arbitration shall be made later than thirty (30) days after the date on which the City Council has rendered a written decision on the underlying claim. The failure to demand arbitration within said 30 days shall result in the Council's decision being binding upon the City and Architect/Engineer.
- 27.3 Notice of demand for arbitration shall be filed in writing with the other party to the Contract. The demand for arbitration shall be made within the 30-day period specified above. The City, if not the party demanding arbitration, has the option of allowing the

matter to proceed with binding arbitration or by written notice within five (5) days after receipt of a demand for arbitration, to reject arbitration and require the Architect/Engineer to proceed through the courts for relief. If arbitration is allowed, the parties agree that the award rendered by the arbitrators will be final, judgment may be entered upon it in any court having jurisdiction thereof, and the award will not be subject to modifications or appeal except to the extent permitted by Oregon law.

28. Joinder

Notwithstanding any contrary language in other documents or agreements related to services provided by Architect pursuant to this Contract, including contracts for construction services, either party, at its sole discretion, may include by joinder persons or entities substantially involved in a common question of law or fact arising out of or related to this Contract and whose presence is required if complete relief is to be accorded. This paragraph applies to any and all claims, disputes, and other matters arising out of, or relating to this Contract, including but not limited to those claims, disputes, and other matters subject to litigation or arbitration.

29. Attorney Fees

If any suit, action or arbitration is brought either directly or indirectly to rescind, reform, interpret or enforce the terms of this Contract, the prevailing party shall recover and the losing party hereby agrees to pay reasonable attorney's fees incurred in such proceeding, in both the trial and appellate courts, as well as the applicable costs and disbursements. Further, if it becomes necessary for City to retain the services of an attorney to enforce any provision of this Contract without initiating litigation, Architect/Engineer agrees to pay City's attorney's fees so incurred. Such costs and fees shall bear interest at the maximum legal rate from the date incurred until the date paid by the losing party.

30. Successors and Assigns; Subcontractors and Assignments

The provisions of this Contract shall be binding upon and shall inure to the benefit of the parties hereto, and their respective successors and assigns.

31. Limitation of Liabilities

City shall not be liable for (i) any indirect, incidental, consequential, or special damages under the Contract or (ii) any damages of any sort arising solely from the termination of this Contract in accordance with its terms. Architect/Engineer shall not be liable for any consequential damages under this Contract.

32. Foreign Contractor

If Architect/Engineer is not domiciled in or registered to do business in the State of Oregon, Architect/Engineer shall promptly provide to the Oregon Department of Revenue and the Corporations Division of the Oregon Secretary of State all information required by those agencies relative to this Contract. Architect/Engineer shall demonstrate its legal capacity to perform the work under this Contract in the State of Oregon prior to entering into this Contract.

33. Confidentiality

Architect/Engineer shall maintain the confidentiality of any of City's information that has been marked as confidential, unless withholding such information would violate the law, create the risk of significant harm to the public, or prevent Architect/Engineer from establishing a claim or defense in an adjudicatory proceeding. Architect/Engineer shall require similar agreements from City's and/or Architect/Engineer's subconsultants to maintain the confidentiality of information of City.

34. Force Majeure

Architect/Engineer shall not be deemed in default hereof nor liable for damages arising from its failure to perform its duties or obligations hereunder if such is due to causes beyond its reasonable control, including, but not limited to, acts of God, acts of civil or military authorities, fires, floods, windstorms, earthquakes, strikes or other labor disturbances, civil commotion or war.

35. Waivers

No waiver by City of any provision of this Contract shall be deemed to be a waiver of any other provision hereof or of any subsequent breach by Architect/Engineer of the same or any other provision. City's consent to or approval of any act by Architect/Engineer requiring City's consent or approval shall not be deemed to render unnecessary the obtaining of City's consent to or approval of any subsequent act by Architect/Engineer, whether or not similar to the act so consented to or approved.

36. Severability

Any provision of this Contract which shall prove to be invalid, void or illegal shall in no way affect, impair or invalidate any other provision hereof, and such remaining provisions shall remain in full force and effect.

37. Headings

The captions contained in this Contract are for convenience only and shall not be considered in the construction or interpretation of any provision hereof.

38. Integration and Modification

This Contract, including the attached exhibits referenced in Section B, contains the entire agreement between the parties regarding the matters referenced herein and supersedes all prior written or oral discussions or agreements regarding the matters addressed by this Contract. Any modifications or amendments to this Contract will only be effective when made in writing and signed by authorized parties for each party to this Contract.

39. Authority

The representatives signing on behalf of the parties certify that they are duly authorized by the party for which they sign to enter into this Contract.

40. Certificate of Compliance with Oregon Tax Laws

By executing this Contract, Architect/Engineer certifies under penalty of perjury that Architect/Engineer is, to the best of Architect/Engineer's knowledge, not in violation of any Oregon tax laws described in ORS 305.385(6) and (7).

CITY OF TILLAMOOK

By: _____

Suzanne Weber
Mayor

Date: _____

By: _____

Authorized Signature

Title: _____

Date: _____

Exhibit A

Scope of Work

SERVICES AND RESPONSIBILITY OF ARCHITECT/ENGINEER

Task 1 – Construction Project Management and Coordination

The major objective of this task is to establish and maintain the line of communication set forth the priorities between the City, Business Oregon, Engineer and Construction Contractor (CC). As the work progresses, the objective will be to coordinate the CA/CEI staff, keep the City informed of the work, and perform day-to-day management tasks.

Task 1.1 A preconstruction conference will be held, and in conformance with Business Oregon preconstruction meeting checklist, see Exhibit E attached to the Architectural/Engineering Services Contract. The preconstruction conference will be held with City and CC to discuss schedule, utility involvement, required documentation submittals, safety plan, compliance with environmental clearances, and other items relevant to the construction of the project.

Deliverables:

- Develop agenda, attend and lead preconstruction conference with CC and City staff. Conference may also include utility companies located within the project limits
- Provide minute meetings of the preconstruction conference and progress meetings

Task 2 – Construction Engineering and Inspection (CEI)

Consultant shall perform CEI services on this project as required to document conformance of the construction with the approved plans and specifications for the project. We expect the construction to occur over one (1) dry weather (summer) season. The City expects that onsite construction activities will require 40 hrs/week for one inspector. Inspection may include but not limited to;

- Inspect installation of traffic control
- Inspect erosion and sediment control measures
- Inspect pipe bedding, pipe placement, and backfill
- Inspect dewatering system
- Inspect connections of all pipes to manholes and/or connections to other pipe sections
- Ensure that the CC meets the environmental requirements in the specifications
- Inspect asphalt and/or concrete repairs
- Inspect mandrall (deflection) testing of pipes
- Inspect Vacuum test on new manholes

Task 3 – QA Surveying

Consultant shall perform confidence survey activities necessary to confirm activities of the CC's survey work and grades. Consultant shall provide all supporting computations and field notes as required to confirm the correct position, orientation, and elevation of the work.

Consultant shall:

- Provide independent QA checking for survey calculations and staking.
- Provide calculations and field notes for the work, as required.

Deliverables:

- Provide calculations, field notes and confidence reports for the layout of the work as required periodically throughout the project.

Task 4 – General Documentation

Consultant shall perform construction documentation tasks required to document CC activities during the project. Consultant shall prepare all documentation on forms and reports by the City. Consultant shall submit forms that they want to use to the City Project Manager for approval.

General documentation includes general daily progress reports, quantity and quality documentation, monthly estimates for payment, subcontract review, payroll review and labor compliance monitoring, and notification of commencement and completion for CC work on site. These tasks will be on-going throughout the project.

Deliverables:

- Prepare general daily progress report and submit to City; submit weekly. However if there are identified issues in the field that need attention, contact the City Project Manager and don't wait for the progress report to be reviewed.
- Prepare quantity and quality documentation upon completion of project. Submit to City with final documentation upon completion of project.
- Prepare and submit notifications for commencement and completion of construction and Notification of project completion, submit to City within 3 days of each milestone.
- Prepare monthly progress pay estimate with the quantities of work performed by the CC and submit to City for payment to the CC. Submit to City by the 10th of each month.

Task 5 - Labor Standards Compliance

The Labor Standards Compliance consultant shall provide the following services associated with the CDBG grant for the City's Project as delineated in the appropriate funding handbook and other agency specified publications (this listing is not meant to be exhaustive or exclusive). You may use the *Community Development Block Grant Grant Management Handbook for Business Oregon 2017* edition:

- Determine the specific labor standards parameters applicable for the construction project.
- Implement and monitor Equal Employment Opportunities (EEO) program.
- Verify the contractor and subcontractors' eligibilities to contract with Federal and State agencies.
- Prepare and submit regulatory contract award notices to Contractor, Office of Federal Contract Compliance Programs and to Business Oregon for both CDBG & SDWRLF funds using Exhibit 6F of the CDBG Grant Handbook.
- Help coordinate with all parties involved the pre-construction meeting and inform contractors of wage and reporting obligations. Help prepare and distribute pre-construction meeting agenda and minutes.
- Create and maintain Labor Standards Enforcement File
- Conduct employee interviews and reconcile with Certified Payrolls. Verify and document posting of federal notices on jobsite.
- Perform ongoing and timely monitoring reviews of the weekly Certified Payroll Reports and related submissions for compliance.
- Notify the prime contractor in writing of any labor discrepancies or suspected violations and define the corrective actions to be taken including restitution payments.
- Identify violations and investigate complaints of underpayment to workers.
- Prepare the Notice of Labor Standards Violation Report and HUD 5.7 Enforcement Report for the underpayments to workers, if necessary.
- Maintain a Labor Standards Administration and Enforcement File.
- Prepare various reports for contract and labor compliance including but not limited to the Contract and Subcontract Activity Report, and Semi-Annual Labor Standards Enforcement Report.
- Review the final project file and participate in the final review meeting with Business Oregon.

Deliverables: A final Labor Standards Compliance report that includes all of the compliance activities required in accordance with the CDBG handbook referenced above.

Task 6 – Review of Construction Submittals

Consultant shall perform review of submittals including traffic control, pollution control and erosion control and all technical submittals related to the items constructed under the construction contract. Consultant shall review submittal drawings in timely manner to avoid delay of the CC's operation.

Consultant shall provide project schedule review and analysis throughout the duration of the project. The goal is to assist the CC in maintaining and adhere to an accurate schedule and also alleviate and/or reduce issues and delays.

Consultant shall review and provide comments to City staff on CC's project schedule at the preconstruction meeting. Review shall check for logic and duration of activities along with completeness of the schedule.

Deliverables:

- Provide submittal review and approval; goal is to have submittal reviews to be returned to CC within 3-5 days.
- Submit written comments on baseline schedule to the CC within 10 working days after receiving the schedule from the CC.

Task 7 – Design Consultation during Construction

Consultant shall provide consultation and technical services regarding design issues raised during construction of the project. Consultant shall clarify construction contract documents, respond to field inquiries (RFI's) and monitor design assumptions.

In conjunction with the above, Consultant shall provide written responses to RFI's as well as prepare design modifications and issue plan changes as required to assure conformance of the final product with the intent of the design. The design consultation will occur only as required and may be ongoing throughout the contract.

Deliverables:

- Responses to RFI's, goal is to submit within three (3) business days of request.
- Design modifications and plan changes, as required to eliminate or minimize impacts to CC's schedule, but no later than ten (10) business days after it is determined that a plan change is necessary.

Task 8 – Contract Change Orders

Consultant shall perform all work related to contract revisions during construction. Generally, any time spent dealing with quality or quantity assurance documentation for work completed relating to a change order or extra work is included under this task. Consultant shall provide analysis to assess the merit of any requested additional Contract Time and/or additional compensations.

Deliverables:

- Prepare and execute Contract Change Orders as changes arise during construction. This may include minor modifications to the contract plans, specifications, and contract time. Contract changes required approval of the City prior to making the change. Contract Change Orders should be written, approved, and included on the monthly progress estimate for the same month the work was completed.
- Prepare an email memorandum to the City discussing the change order or revision, with three (3) business days after sending the CCO to City for their approval.

Task 9 – Project Closeout

Consultant shall coordinate, lead and document a Final Inspection with the City and CC. This inspection shall follow Second Notification to confirm all of the City's project goals have been met. Consultant shall note any deficiencies and submit a written punchlist to the CC for completion of on-site work.

Consultant shall copy all project documentation relevant to project closeout. Project documentation prepared under Task 4 and this Task will be compiled and submitted to the City for their records.

Consultant shall make corrections to existing plans and prepare final "As-Constructed" contract drawings for final records.

Deliverables:

Consultant shall provide:

- Recommendations of Project Acceptance, within three (3) days after punchlist completions and receipt of documentation from CC.
- General daily progress reports, quantity and quality documentation, and certified payrolls, within thirty (30) days after Project Acceptance.

Two (2) copies of complete "As-Constructed" contract drawings on 11 x 7 paper, and one electronic PDF file emailed to the City, within 90 days after all contract related work is complete (Second Notification).

Exhibit B

Oregon Public Contracting Requirements

PUBLIC CONTRACTING CODE REQUIREMENTS For ORS 279C Personal Service Contract

1. Contractor shall pay promptly, as due, all persons supplying labor or materials for the prosecution of the Work provided for in the contract, and shall be responsible for such payment of all persons supplying such labor or material to any Subcontractor.
2. Contractor shall promptly pay all contributions or amounts due the Industrial Accident Fund from such Contractor or Subcontractor incurred in the performance of the Contract, and shall be responsible that all sums due the State Unemployment Compensation Fund from Contractor or any Subcontractor in connection with the performance of the Contract shall promptly be paid.
3. Contractor shall not permit any lien or claim to be filed or prosecuted against the City on account of any labor or material furnished and agrees to assume responsibility for satisfaction of any such lien so filed or prosecuted.
4. Contractor and any Subcontractor shall pay to the Department of Revenue all sums withheld from employees pursuant to ORS 316.167.
5. Contractor shall employ no person for more than 10 hours in any one day, or 40 hours in any one week, except in cases of necessity, emergency, or where public policy absolutely requires it, and in such cases, Contractor shall pay the employee at least time and one-half pay for: 1) all overtime in 10 hours in any one day or in excess of 40 hours in any one week, whichever is greater, except for individuals under personal service contracts who are excluded under ORS 653.010 to 653.261 or under 29 U.S.C. 201 to 209 from receiving overtime; or 2) work performed on the legal holidays specified in a collective bargaining agreement or in ORS 279C.540(1)(b)(B) to (G).
6. Pursuant to ORS 279C.520(2), the Contractor must give notice to employees who work on this contract in writing, either at the time of hire or before commencement of work on the Contract, or by posting a notice in a location frequented by employees, of the number of hours per day and the days per week that the employees may be required to work.
7. Contractor shall ensure Owner's compliance with all applicable provisions of ORS 279C.527 and OAR Chapter 330 Division 135 regarding green energy technology requirements for new or major renovations of public buildings costing over \$5,000,000.
8. Pursuant to ORS 279C.530(2), all employers, including Contractor, that employ subject workers who work under this contract shall comply with ORS 656.017 and provide the required Workers' Compensation coverage, unless such employers are exempt under ORS 656.126. Contractor shall ensure that each of its subcontractors complies with these requirements.
9. All sums due the State Unemployment Compensation Fund from the Contractor or any Subcontractor in connection with the performance of the contract shall be promptly so paid.
10. The Contract may be canceled at the election of City for any willful failure on the part of Contractor to faithfully perform the contract according to its terms.

11. Contractor certifies that it has not discriminated against minorities, women or emerging small business enterprises or a business enterprise that is controlled by or that employs a disabled veteran as defined in ORS 408.225 in obtaining any required subcontractors.
12. Contractor certifies its compliance with the Oregon tax laws, in accordance with ORS 305.385.
13. In the performance of this Contract, the Contractor shall use, to the maximum extent economically feasible, recycled paper, materials, and supplies, and shall compost or mulch yard waste material at an approved site, if feasible and cost effective.
14. Pursuant to City's Public Contracting Rule 137-049-0880, the City may, at reasonable times and places, have access to and an opportunity to inspect, examine, copy, and audit the records relating to the Contract.
15. The following notice is applicable to Work involving excavation. "ATTENTION: Oregon law requires you to follow rules adopted by the Oregon Utility Notification Center. Those rules are set forth in OAR 952-001-0010 through OAR 952-001-0090. You may obtain copies of the rules by calling the center at (503) 232-1987."

Exhibit C

City's Request for Proposals for Architectural/Engineering Services

Exhibit D

Architect/Engineer's Proposal and Schedule of Rates and Charges

Exhibit E

Exhibit SE – Grant Award Exceeds 100 000 Non-Construction

Required Federal Contract Clauses

Use for Non-Construction Contracts Where the Grant Award Exceeds \$100,000

1. Source of Funds

“Work under this contract will be funded [in part/in its entirety] with federal grant funds from the Oregon Community Development Block Grant program.”

2. Conflict of Interest

No employee, agent, consultant, officer, elected official or appointed official of the city or county grant recipient or any of its sub-recipients (sub-grantees) receiving CDBG funds who exercise or have exercised any functions or responsibilities with respect to CDBG activities who are in a position to participate in a decision making process or gain inside information with regard to such activities, may obtain a financial interest or benefit from the activity or have an interest or benefit from the activity or have an interest in any contract, subcontract or agreement with respect thereto, or the proceeds there under, either for themselves or those with whom that have family or business ties, during their tenure or for one year thereafter, in accordance with 24 CFR Part 570.489(h).

3. Minority, Women and Emerging Small Business (Instruction: Include if contract is \$10,000 or more)

Before the final payment to Contractor is made, Contractor shall submit the attached “Minority, Women and Emerging Small Business Activity Report”.

4. Section 3 - Economic Opportunities for Low- and Very Low-Income Persons (This clause is applicable only if the Community Development Block Grant exceeds \$100,000 the funded activity leads to construction i.e. engineering, program management etc.)

- A. The work to be performed under this contract is subject to the requirements of Section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701u (Section 3). The purpose of Section 3 is to ensure that employment and other economic opportunities generated by HUD assistance or HUD-assisted projects covered by Section 3 shall, to the greatest extent feasible, be directed to low- and very low-income persons, particularly persons who are recipients of HUD assistance for housing.
- B. The parties to this contract agree to comply with HUD’s regulations in 24 CFR part 135, which implement Section 3. As evidenced by their execution of this contract, the parties to this contract certify that they are under no contractual or other impediment that would prevent them from complying with the part 135 regulations.
- C. The contractor agrees to send to each labor organization or representative of workers with which the contractor has a collective bargaining agreement or other understanding, if any, a notice advising the labor organization or workers’ representative of the contractor’s commitments under this Section 3 clause, and will post copies of the notice in conspicuous places at the work site where both employees and applicants for training and employment positions can see the notice. The notice shall describe the Section 3 preference, shall set forth minimum number and job titles subject to hire, availability of apprenticeship and training positions, the qualifications for each; and the name and location of the person(s) taking applications for each of the positions; and the anticipated date the work shall begin.
- D. The contractor agrees to include this Section 3 clause in every subcontract subject to compliance with regulations in 24 CFR part 135, and agrees to take appropriate action, as provided in an applicable provision of the subcontract or in this Section 3 clause, upon a finding that the subcontractor is in violation of the regulations in 24 CFR part 135. The contractor will not subcontract with any

Community Development Block Grant Management Handbook – 2016
Page 1 of 5

subcontractor where the contractor has notice or knowledge that the subcontractor has been in violation of the regulations in 24 CFR part 135.

- E. The contractor will certify that any vacant employment positions, including training positions, that are filled (1) after the contractor is selected but before the contract is executed, and (2) with persons other than those to whom the regulations in 24 CFR part 135 require employment opportunities to be directed, were not filled to circumvent the contractor’s obligations under 24 CFR part 135.
 - F. Noncompliance with HUD’s regulations in 24 CFR part 135 may result in sanctions, termination of this contract for default, and debarment or suspension from future HUD-assisted contracts.
 - G. Contractor shall complete the required Section 3 report Form 60002, included as Exhibit 5C of the CDBG Grant Management Handbook and submit the completed form to the city / county grant recipient with the final construction pay estimate for the project.
5. Prohibition on the Use of Federal Funds for Lobbying

As evidenced by execution of this contract, Contractor certifies, to the best of their knowledge and belief that:

CERTIFICATION REGARDING LOBBYING

The undersigned certifies, to the best of his or her knowledge and belief, that:

- A. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan or cooperative agreement.
- B. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, “Disclosure Form to Report Lobbying,” in accordance with its instructions.
- C. The undersigned shall require that the language of this certification be included in the award documents for all sub awards at all tiers (including subcontracts, sub grants, and contracts under grants, loans, and cooperative agreements) and that all sub recipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

Signed (Contractor) _____

Title / Firm _____

Date _____

Activity Report

Minority Women and Emerging Small Business

The report on the following page is to be completed by grantees, developers, sponsors, builders, agencies, and/or project owners for reporting contract and subcontract activities of \$10,000 or more under the following programs: Community Development Block Grants (entitlement and small cities); Urban Development Action Grants; Housing Development Grants; Multi-family Insured and Noninsured; Public and Indian Housing Authorities; and contracts entered into by recipients of CDBG rehabilitation assistance.

Contracts / subcontracts of less than \$10,000 need be reported only if such contracts represent a significant portion of your total contracting activity. Include only contracts executed during this reporting period.

This form has been modified to capture Section 3 contract data in columns 7g and 7i. Section 3 requires that the employment and other economic opportunities generated by HUD financial assistance for housing and community development programs shall, to the greatest extent feasible, be directed toward low- and very low-income persons, particularly those who are recipients of government assistance for housing. Recipients using this form to report Section 3 contract data must also use Part I of form HUD 60002 to report employment and training opportunities data. Form HUD 2516 is to be completed for public and Indian housing and most community development programs. Form HUD 60002 is to be completed by all other HUD programs including State administered community development programs covered under Section 3.

A Section 3 contractor / subcontractor is a business concern that provides economic opportunities to low- and very low-income residents of the metropolitan area (or non-metropolitan county), including a business concern that is 51 percent or more owned by low- or very low-income residents; employs a substantial number of low- or very low-income residents; or provides subcontracting or business development opportunities to businesses owned by low- or very low-income residents. Low- and very low-income residents include participants in Youthbuild programs established under Subtitle D of Title IV of the Cranston-Gonzalez National Affordable Housing Act.

The terms “low-income persons” and “very low-income persons” have the same meanings given the terms in section 3(b)(2) of the United States Housing Act of 1937. Low-income persons mean families (including single persons) whose incomes do not exceed 80 per centum of the median income for the area, as determined by the Secretary, with adjustments for smaller and larger families, except that the Secretary may establish income ceilings higher or lower than 80 per centum of the median for the area on the basis of the Secretary’s findings that such variations are necessary because of prevailing levels of construction costs or unusually high or low-income families. Very low-income persons means low-income families (including single persons) whose incomes do not exceed 50 per centum of the median family income for the area, as determined by the Secretary with adjustments for smaller and larger families, except that the Secretary may establish income ceilings higher or lower than 50 per centum of the median for the area on the basis of the Secretary’s findings that such variations are necessary because of unusually high or low family incomes.

Activity Report
Explanation of Codes

1. Grantee: Enter the name of the unit of government submitting this report.

3. Contact Person: Enter name and phone of person responsible for maintaining and submitting contract / subcontract data.

7a. Grant Number: Enter the HUD Community Development Block Grant Identification Number (with dashes). For example: B-32-MC-25-0034. For Entitlement Programs and Small City multi-year comprehensive programs, enter the latest approved grant number.

7b. Amount of Contract / Subcontract: Enter the dollar amount rounded to the nearest dollar. If subcontractor ID number was provided in 7f, the dollar figure would be for the subcontract only and not for the prime contract.

7c. Type of Trade: Enter the numeric codes (see table below) which best indicates the contractor's / subcontractor's service. If subcontractor ID number was provided in 7f, the type of trade code would be for the subcontractor only and not for the prime contractor. The "other" category includes supply, professional services and all other activities except construction and education / training activities.

7d. Business Racial / Ethnic Code: Enter the numeric code (see table below) which indicates the racial / ethnic character of the owner(s) and controller(s) of 51% of the business. When 51% or more is not owned and controlled by any single racial / ethnic category, enter the code that seems most appropriate. If the subcontractor ID number was provided, the code would apply to the subcontractor and not to the prime contractor.

7e. Woman Owned Business: Enter Yes or No.

7f. Contractor Identification (ID) Number: Enter the Employer (IRS) Number of the Prime Contractor as the unique identifier for prime recipient of HUD funds. Note that the Employer (IRS) Number must be provided for each contract / subcontract awarded.

7g. Section 3 Contractor: Enter Yes or No.

7h. Subcontractor Identification (ID) Number: Enter the Employer (IRS) Number of the subcontractor as the unique identifier for each subcontract awarded from HUD funds. When the subcontractor ID Number is provided, the respective Prime Contractor ID Number must also be provided.

7i. Section 3 Contractor: Enter Yes or No.

7j. Contractor / Subcontractor Name and Address: Enter this information for each firm receiving contract / subcontract activity only one time on each report for each firm.

Exhibit F

Exhibit 6E – Preconstruction Conference Notes

Preconstruction Conference Notes Community Development Block Grant Project	
Project Name:	
Oregon CDBG Grant #:	
Name of CDBG City or County Recipient:	
Name of Prime Contractor:	
Date and Place of Preconstruction Conference:	
Conference Attendees:	Attach a list

Staff of the Oregon Business Development Department or the local government recipient of the CDBG funds explained each of the topics listed below. Questions and answers about the provisions are noted.

	Topic	Questions and Answers
1.	What prevailing wages are and who gets them – Federal Davis Bacon Prevailing Wages – all laborers and mechanics employed on the site.	
2.	Difference between federal Davis Bacon and state prevailing wages – Both Federal Davis Bacon and BOLI now apply to projects. The CDBG program requires Federal prevailing wages. For information about State prevailing wages and requirements contact BOLI.	
3.	Subcontractors – Must complete the Contractor / Subcontractor Agreement form, Exhibit 6G Part E, be provided the HUD 4010 form, and Labor Relations Letter LR-96-01, Exhibit 6C, properly completed CPRs and apprenticeship documentation prior to receiving payment.	
4.	Pay requirements – Wages must be paid weekly and in full. CPRs due to recipient 7-10 days after weekly payment to workers.	
5.	How to request wage rates for trades not listed in the wage decision – Complete the Report of Additional Classification and Rate and submit to OBDD. Exhibit 6B.	
6.	Whom contractors can hire <u>Employees</u> - Contractors cannot hire: illegal residents of the USA, and anyone under the age of 16. Contractors cannot discriminate based upon familial status, race, color, religion, sex, or national origin. <u>Subcontractors</u> – Any contractor that is listed with the CCB and has not been debarred, suspended on the federal EPLS list.	

	Topic	Questions and Answers
7.	<p>What workers must be told</p> <ol style="list-style-type: none"> 1) Project is subject to federal prevailing wages. 2) Where the wages and poster will be posted and available for their access. 3) They will be interviewed. 4) They will be paid weekly. 5) Who to contact if there are questions about wages, benefits, hours of work and overtime. This contact should not be the contractors, and preferably a representative of the recipient. 	
8.	<p>Apprentices and Trainees</p> <ol style="list-style-type: none"> 1) Apprentices must be registered in a state or federal program. This documentation must be submitted to the recipient, and show the workers name, ratio, and rate of pay of the Journeyman's rate. 2) Contractor must be a registered training agent. 3) Must perform work in the trade enrolled in. 4) Ratios must be met. 5) Apprentices working without a Journeyman must be paid Journeyman's wages. 	
9.	<p>Overtime requirements</p> <p><u>Federal</u> - 1 and 1/2 times the hourly rate of pay for any hours worked in excess of 40 hours per week.</p> <p><u>Oregon</u> – 1 and 1/2 times the of pay for any hours worked in excess of 8 hours per day, unless there is bargaining unit agreement allowing 4 ten-hour days.</p>	
10.	<p>Fringe benefits – Must be paid in cash or to a funded third party, such as a union plan. Refer to Chapter 6 for more information.</p>	
11.	<p>Fringe benefits plans vs. paying benefits in cash – If fringe benefits are paid to plans, the contractor must provide the hourly amount computed for each employee for that contribution to the recipient.</p>	
12.	<p>Worker disputes about wages – Workers may use the HUD complaint form – located in Chapter 6. Disputes should be handled by the grant recipient and investigated. Grant recipient should contact OBOD for guidance.</p> <p>Contractors cannot discriminate against any worker with a dispute about wages.</p>	

	Topic	Questions and Answers
13.	<p>Information contractor is required to submit to CDBG recipient:</p> <p>Completed:</p> <p>Contractor / subcontractor agreement forms – Parts A-E</p> <p>Certified Payroll Reports (WH-347)</p> <p>Statements of Compliance</p> <p>Signature Authorizations</p> <p>Apprenticeship documentation</p> <p>Corrected payrolls, if needed.</p> <p>Anything requested by the grant recipient, State or HUD.</p>	
14.	<p>Civil rights and equal employment opportunity requirements – Contractors cannot discriminate.</p>	
15.	<p>How compliance is checked</p> <p>Weekly CPR review</p> <p>Worker Interviews</p> <p>On-Site monitoring</p> <p>Worker complaints</p>	
16.	<p>Underpayment of workers – All wage restitution due to workers must be paid. There are no exceptions. If underpayments are not paid, the recipient can recommend sanctions, debarment, cross withholding, or pay the underpayments from the retainage due to the contractor.</p>	

Signatures		
		Date
Prime Contractor		
CDBG Recipient Representative		
Oregon Business Development Department staff (if present)		

Oregon Business Development Department
 775 SUMMER STREET NE SUITE 200
 SALEM OR 97301-1280

Attachments: Roster of Attendees
 Other Minutes of Preconstruction Conference

