

**COLUMBIA GORGE COMMUNITY COLLEGE**  
**SMALL CONSTRUCTION PROJECTS CONTRACT**

This Contract is between **COLUMBIA GORGE COMMUNITY COLLEGE (Owner)** and **INSERT CONTRACTOR NAME**,  
(Contractor).

**Purpose:**

The parties agree as follows:

**Date of Commencement and Substantial Completion.** The date of commencement of the Work shall be **INSERT START DATE**.

The Contract Time shall be measured from the date of commencement. The Contractor shall achieve Substantial Completion of the entire Work not later than **INSERT COMPLETION DATE**..

**Contractor's Agreement to Provide Services.** Contractor agrees to provide Owner, the Services described in Exhibit 1.

**Statement of Work.** Contractor shall perform the work described in Exhibit 1.

**Payment for Work.** The Owner agrees to pay Contractor in accordance with Exhibit 1 and this Contract.

**Contract Documents.** The Contract Documents consist of the following documents which are listed in descending order of precedence: this Contract; exhibits to this Contract, including Exhibit 1 (Statement of Work, Compensation, Payment and Renewal Terms); Exhibit 2 (Insurance Requirements); Exhibit 3 (Certification Statement for Corporation or Independent Contractor); Exhibit 4 (Workers' Compensation Exemption Certificate, applicable only if Contractor is claiming to be exempt from payment); Exhibit 5; Exhibit 6 (Hazardous Materials Requirements), and Exhibit 7 (Project Manual/General conditions). **INSERT ADDITIONAL EXHIBITS OR INCORPORATE ADDITIONAL DOCUMENTS BY REFERENCE AS NECESSARY**, e.g. Owner's Invitation to Bid, Contractors Bid, design documents, or other documents that need to be contractual.

A conflict in the contract documents shall be resolved in the priority listed above with this Contract taking precedence over all other documents. The contract documents are the entire contract between the parties and shall supersede any prior representation, written or oral.

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**STANDARD TERMS AND CONDITIONS**

1. **Time is of the Essence.** Time is of the essence in the performance of this Contract.
2. **Subcontracts.** Contractor shall not subcontract any of the work required by this Contract or assign or transfer any of its interest in this Contract, without the prior written consent of the Owner, which may be withheld without cause. In addition to any other provisions the Owner may require, Contractor shall require of any permitted subcontract under this Contract, that the Sub-Contractor be bound by all the same terms and conditions of this agreement. Such sub-contracts are solely between the Contractor and the Sub-Contractor and shall not have any binding effect on the Owner.
3. **Assignment.** This contract is not assignable by the Contractor, either whole or in part, unless Contractor has obtained the prior written consent of the Owner.
4. **Other Contractors.** The Owner may undertake or award other contracts for additional or related work, and the Contractor shall fully cooperate with such other contractors and with any Owner employees concerned with such additional or related work, and shall coordinate its performance under this contract with such additional or related work. The Contractor shall not commit or permit any act that will interfere with the performance of work by any other contractor or by Owner employees.
5. **Independent Contractor Status.** Contractor shall certify status in accordance with Exhibit 3.
6. **No Third Party Beneficiaries.** The Owner and Contractor are the only parties to this Contract and are the only parties entitled to enforce its terms. Nothing in this Contract gives or provides any benefit or right, whether directly, indirectly, or otherwise, to third persons unless such third persons are individually identified by name in this Contract and expressly described as intended beneficiaries of this Contract.
7. **Successors in Interest.** The provisions of this Contract shall be binding upon and inure to the benefit of the parties and their successors and approved assigns, if any.
8. **Nonperformance.** In the event of nonperformance under this contract, the Owner, after seven (7) days written notice, shall have the right to obtain from other sources such services as may be required to accomplish the work not performed, and it is agreed that the difference in cost, if any, for said work or goods shall be borne by the Contractor. For purposes of this section, nonperformance shall be defined as failure to appear and perform work as specified and scheduled.
9. **Escalation.** Any price or cost adjustments shall be submitted by the Contractor prior to the time in which such changes are to become effective and work is preformed. The Owner reserves the right to reject any modifications of the contract unacceptable to the Owner.
10. **Early Termination.** This Contract may be terminated as follows:
  - a. **Termination by Mutual Agreement:** The Owner and Contractor, by mutual written agreement, may terminate this Contract at any time.

- b. **Termination for Convenience:** The Owner in its sole discretion may terminate this Contract for any reason on 30 days written notice to Contractor.
- c. **Termination for Breach:** Either the Owner or Contractor may terminate this Contract in the event of a breach of the Contract by the other. Prior to such termination, the party seeking termination shall give to the other party written notice of the breach and intent to terminate. If the party committing the breach has not entirely cured the breach within 15 days of the date of the notice, then the party giving the notice may terminate the Contract at any time thereafter by giving a written notice of termination.
- d. **Termination for Failure to Maintain Qualifications:** Notwithstanding paragraph 9(c), the Owner may terminate this Contract immediately by written notice to Contractor upon denial, suspension, revocation or non-renewal of any license, permit or certificate that Contractor must hold to provide services under this Contract.
- e. **Payment on Early Termination.** Upon termination pursuant to paragraph 9, payment shall be made as follows:
- i. If terminated under 9(a) or 9(b) for the convenience of the Owner, the Owner shall pay Contractor for work performed prior to the termination date if such work was performed in accordance with the Contract. The Owner shall not be liable for direct, indirect or consequential damages. Termination shall not result in a waiver of any other claim the Owner may have against Contractor.
  - ii. If terminated under 9(c) by the Contractor due to a breach by the Owner, then the Owner shall pay the Contractor for work performed prior to the termination date if such work was performed in accordance with the Contract.
  - iii. If terminated under 9(c) or 9(d) by the Owner due to a breach by the Contractor, then the Owner shall pay the Contractor for work performed prior to the termination date provided such work was performed in accordance with the Contract less any setoff to which the Owner is entitled.
11. **Payment of Invoices.** Unless otherwise provided in Exhibit 1, the payment period shall be one calendar month, payments are due and payable thirty (30) days from receipt of contractor's complete invoice or fifteen (15) days after payment is approved by the Owner, whichever is earlier. The Owner may withhold 5% of each payment as retainage pursuant to ORS 279C.570.
12. **Changes in the Work.** The Owner reserves the right to adjust the scope of the work by written change order if required by unforeseen circumstances or changes in the budget. No Change Order will be effective unless approved in writing by the Owner and signed by Contractor. Agreement on any Change Order shall constitute a final settlement of all matters relating to the change in the Work that is the subject of the Change Order, including, but not limited to, all direct and indirect costs associated with such change and any and all adjustments to the Contract Sum and the construction schedule.
13. **Inspection and Acceptance of Work.** Owner shall inspect Contractor's work and advise contractor of any deficiencies, or if there are none, that the work has been accepted. Contractor shall perform all additional work necessary to correct any deficiencies without undue delay and without additional cost to Owner.
14. **Right to Withhold Payments.** Owner shall have the right to withhold from payments due Contractor such sums as necessary, in Owner's sole opinion, to protect Owner against any loss, damage or claim which may result from Contractor's performance or failure to perform under this agreement or the failure of Contractor to make proper payment to any suppliers or subcontractors. If a liquidated damages provision is contained in the Scope of Work and if Contractor has violated that provision, Owner shall have the right to withhold from payments due Contractor such sums as are required to satisfy Owner's claims under that provision.
15. **Knowledge of Site Conditions.** The Contractor shall, as a condition precedent to commencement of the Work (a) become familiar with the Project site and review all analyses, studies, and test data available to the Contractor concerning the conditions of the Project site, (b) inspect the location of the Work and satisfy itself as to the condition thereof, including all structural, surface, and observed subsurface conditions, and (c) determine (i) that the Contract Sum is just and reasonable compensation for all the Work, including all foreseen and foreseeable construction risks, hazards, and difficulties in connection therewith, (ii) that the Contract Time is adequate for the performance of the Work, and (iii) that the Work shall not result in any lateral or vertical movement of any adjacent structure. The Contractor will notify the Owner in writing in advance of commencement of the Work if it determines that it cannot satisfy these conditions.
- The Contractor shall exercise special care in executing subsurface work in proximity of known subsurface utilities, improvements, and easements.
16. **Owner's Right to Stop the Work.**
- a. If the Contractor fails to correct Work which is not in accordance with the requirements of the Contract Documents or fails to carry out Work in accordance with Contract Documents, the Owner may issue a written order to the Contractor to stop the Work, or any portion thereof, until the cause for such order has been eliminated.
  - b. If suspension of the Work is warranted by reason of unforeseen conditions which may adversely affect the quality of the Work if such Work were continued, the Owner may suspend the Work by giving written notice to the Contractor. In such event, the Contract Time shall be adjusted accordingly, and the Contract Sum shall be adjusted to the extent, if any, that additional costs are incurred by reason of such suspension.
  - c. Notwithstanding any other provision, the Owner's authorized representative may, in his or her complete discretion, stop all of the Work, or any portion of the Work, if the Work creates a safety hazard or if a life/safety threat exists to the facility or its occupants. Any cost to correct deficiencies in the Contractor's Work will be borne solely by the Contractor.
17. **Performance of the Work.** The Contractor shall supervise, coordinate, and perform the Work in accordance with the Contract Documents in a professional, safe, and workmanlike manner and in accordance with all laws, codes, and professional standards applicable to the industries and trades involved, including without limitation compliance with all applicable federal, state, and local building codes, the Owner's construction and life safety policies and procedures, certification requirements applicable to the Work, and other policies or standards incorporated or referenced in the Contract Documents. Unless otherwise noted or directed, the Contractor will perform all Work in accordance with product manufacturers' recommendations or directions for best results. No preparatory step or installation procedure may be omitted unless specifically authorized by the Contract Documents or at the direction of the Architect or the Owner's Representative. Conflicts between manufacturers' directions shall be resolved by the Architect.
18. **Remedies.** In the event of breach of this Contract the parties shall have the following remedies:
- a. If terminated under 9(c) by the Owner due to a breach by the Contractor, the Owner 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 the Contractor shall pay to the Owner the amount of the reasonable excess.
  - b. In addition to the remedies in paragraphs 9 and 13 for a breach by the Contractor, the Owner also shall be entitled to any other equitable and legal remedies that are available.
  - c. If the Owner breaches this Contract, Contractor's remedy shall be limited to termination of the Contract and receipt of Contract payments for which the

Contractor has completed the work.

19. **Claims.**

- a. **Time Limits on Claims:** Claims by either party must be made within 21 days after occurrence of the event giving rise to such Claim or within 21 days after the claimant first recognizes the condition giving rise to the Claim, whichever is later. Claims must be made in writing to the Architect and the other party, and must identify the known bases for each Claim and the nature and amount of the relief sought.
- b. **Continuing Contract Performance:** Pending final resolution of a claim except as otherwise agreed in writing, the Contractor shall proceed diligently with performance of the Contract and the Owner shall continue to make payments in accordance with the Contract Documents.
- c. **Claims for Additional Costs:** If the Contractor wishes to make Claim for an increase in the Contract Sum, written notice as provided herein shall be given before proceeding to execute the Work. Prior notice is not required for Claims relating to an emergency endangering life or property. In an emergency affecting the safety of persons or property, the Contractor shall act to prevent threatened damage, injury or loss and shall immediately notify the Owner.
- d. **Claims for Additional Time:** If the Contractor wishes to make Claim for an increase in the Contract Time, written notice as provided herein shall be given. The Contractor's Claim shall include an estimate of cost and of probable effect of delay on progress of the Work. In the case of a continuing delay only one Claim is necessary.
- e. **Injury or Damage to Person or Property:** If any person suffers physical injury or property damage arising from the Work regardless of the cause, notice of such injury or damage, whether or not insured, shall be given immediately to the Owner's authorized representative and the Contractor's authorized representative. The notice shall provide sufficient detail to enable the Owner and any other party affected to investigate the matter.

20. **Compliance With Applicable Law.** Contractor shall comply with all federal, state, and local laws applicable to the work under this Contract, and all regulations and administrative rules established pursuant to those laws, including, without limitation, the following:

- a. **ORS 279A.110:** Contractor shall certify that the Contractor has not discriminated and will not discriminate against a subcontractor in the awarding of a subcontract because the subcontractor is a minority, women, or emerging small business enterprise certified under ORS 200.055.
- b. **ORS 279C.380:** Unless exempted by the Owner in writing pursuant to the Owner's local public contracting rules, prior to starting work under this Contract, Contractor or its Contractor shall execute and deliver to Owner a good and sufficient performance bond, in a form acceptable to Owner, in a sum equal to 100% of the construction portion of the Contract Price, excluding soft costs, for the faithful performance of the Contract, and Contractor or its Contractor shall execute and deliver to Owner a good and sufficient payment bond, in a form acceptable to Owner, in a sum equal to 100% of the construction portion of the Contract Price, excluding soft costs, solely for the protection of claimants under ORS 279C.600.
- c. **ORS 279C.505:** Contractor shall make payment promptly, as due, to all persons supplying to such Contractor labor or material for the prosecution of the work provided for in such Contract; pay all contributions or amounts due the Industrial Accident Fund from such Contractor or subcontractor incurred in the performance of the Contract; not permit any lien or claim to be filed or prosecuted against the state or a county, school Owner, municipality, municipal corporation or subdivision thereof, on account of any labor or material furnished; and pay to the Department of Revenue all sums withheld from employees pursuant to ORS 316.167. Contractor shall further demonstrate that an employee drug testing program is in place.
- d. **ORS 279C.510:** If this contract includes demolition work, the Contractor shall salvage or recycle construction and demolition debris, if feasible and cost-effective. If this contract includes lawn or landscape maintenance, the Contractor shall compost or mulch yard waste material at an approved site, if feasible and cost-effective.
- e. **ORS 279C.515:** If Contractor fails, neglects or refuses to make prompt payment of any claim for labor or services furnished to the Contractor or a subcontractor by any person in connection with this Contract as such claim becomes due, the Owner may pay such claim to the person furnishing the labor or services and charge the amount of the payment against funds due or to become due the Contractor by reason of this Contract. The payment of a claim in the manner authorized in this section shall not relieve the Contractor or the Contractor's or Contractor's surety from any obligation with respect to any unpaid claims.

Unless the payment is subject to a good faith dispute as defined in ORS 279C.580, if Contractor or any first-tier subcontractor fails to pay any claim for materials or labor furnished under this contract within 30 days after being paid by Owner, interest shall be due on such claim as specified in ORS 279C.515(2) at the end of the 10-day period that payment is due under ORS 279C.580(4). A person with any such unpaid claim may file a complaint with the Construction Contractor's Board unless the complaint is subject to a good faith dispute as defined in ORS 279C.580.

- f. **ORS 279C.520:** Contractor shall not employ and shall require that its Contractor and subcontractors not employ any person to perform construction work for more than 10 hours in any one day, or 40 hours in any one week, except in cases of necessity, emergency, or where the public policy absolutely requires it, and in such cases, except in cases of Contracts for personal services as defined in ORS 279A.055, the laborer shall be paid at least time and a half pay:
  - i. For all overtime in excess of eight hours a day or 40 hours in any one week when the work week is five consecutive days, Monday through Friday; and
  - ii. For all overtime in excess of 10 hours a day or 40 hours in any one week when the work week is four consecutive days, Monday through Friday; and
  - iii. For work performed on Saturday and on any legal holiday specified in any applicable collective bargaining agreement or ORS 279C.540. The requirement to pay at least time and a half for all overtime worked in excess of 40 hours in any one week, shall not apply to individuals who are excluded under ORS 653.010 to 653.261 or under 29 U.S.C. Section 201 to 209 from receiving overtime.

Design Builder shall and shall require its Contractor and subcontractors to give notice to their employees who work under 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 days per week that the employees may be required to work.

- g. **ORS 279C.530:** Contractor shall promptly, as due, make payments to any person, copartnership, association or corporation, furnishing medical, surgical and hospital care or other needed care and attention, incident to sickness or injury, to the employees of such Contractor, of all sums which the Contractor agrees to pay for such services and all moneys and sums which the Contractor collected or deducted from the wages of employees pursuant to any law, Contract or agreement for the purpose of providing or paying for such service. To the extent any of Contractor's employees are covered by the Oregon employment laws, the Contractor, its Contractor, 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 their subject workers.

- h. ORS 279C.545: Construction workers employed by the Contractor or its Contractor shall be foreclosed from the right to collect for any overtime under this contract unless a claim for payment is filed with the Contractor or Contractor within 90 days from the completion of the contract, providing the Contractor or Contractor has:
- i. Caused a circular clearly printed in blackface pica type and containing a copy of this section to be posted in a prominent place alongside the door of the timekeeper's office or in a similar place which is readily available and freely visible to any or all workers employed on the work, and
  - ii. Maintained such circular continuously posted from the inception to the completion of the contract on which workers are or have been employed.
- i. ORS 279C.580(3): Contractor shall include in each subcontract for property or services with a first tier subcontractor a clause that obligates the Contractor to pay the first tier subcontractor for satisfactory performance under its subcontract within 10 days out of such amounts as are paid to the Contractor by the Owner. Contractor shall also include in each subcontract a clause that states that if the Contractor fails to pay any claim for materials or labor furnished under this contract within 30 days after being paid by Owner, interest shall be due on such claim as specified in ORS 279C.515(2) at the end of the 10-day period that payment is due under ORS 279C.580(3). Contractor shall require each first tier subcontractor to include a payment clause and interest clause conforming to the requirements of ORS 279C.580 in each of its subcontracts, and to require each of its subcontractors to include a similar clause in each contract with a lower tiered subcontractor or supplier.
- j. ORS 279C.800 to 279C.870: If this Contract is over \$50,000 or is otherwise subject to payment of prevailing wages under ORS 279C.800 to 279C.870, Contractor shall and shall require any subcontractors to pay not less than prevailing wages to each worker in each trade or occupation employed in the performance of the Contract as required by ORS 279C.840. The publication "Prevailing Wage Rates for Public Works Contracts in Oregon," dated January 1, 2008, and published by the State of Oregon Bureau of Labor and Industries ("BOLI") sets forth the prevailing wages applicable to this Contract and is incorporated by reference herein. This publication may be accessed electronically on BOLI's website, [www.boli.state.or.us](http://www.boli.state.or.us) (click on "Prevailing Wages" under the menu on BOLI's home page, and then click on "PWR Rate Publications" under the menu on the Prevailing Wages page). Contractor and any subcontractors shall post the prevailing wage rates in a conspicuous and accessible place in or about the project.
- k. ORS 279C.836: If this Contract is over \$50,000 or is otherwise subject to payment of prevailing wages under ORS 279C.800 to 279C.870, the Contractor shall:
- i. file a public works bond with the Construction Contractors Board pursuant to ORS 279C.836 before starting work on the project, unless exempt under ORS 279C.836(2) (7) or (8).
  - ii. Include in every subcontract a provision requiring the subcontractor to file a public works bond with the Construction Contractors Board pursuant to ORS 279C.836 before starting work on the project, unless exempt under ORS 279C.836(2) (7) or (8).
- l. ORS 279C.845. If this Contract is over \$50,000 or is otherwise subject to payment of prevailing wages under ORS 279C.800 to 279C.870:
- i. The Contractor or the Contractor's surety and every subcontractor or subcontractor's surety shall file with the Owner a certified statement on a form provide by the BOLI certifying the hourly rate of wage paid each worker employed by the Contractor or subcontractor on the work and that no such worker has been paid less than the prevailing rate of wage or wage specified under the contract.
  - ii. Notwithstanding ORS 279C.555 or 279C.570(7), the Owner shall retain 25% of all amounts earned by the Contractor until the Contractor has filed the certified statements as required by ORS 279C.845. In addition, the Contractor shall retain 25% of any amount earned by a First Tier Subcontractor until such subcontractor has filed the certified statements with the Owner. The Owner and/or the Contractor and Contractor shall pay any such retained amounts within 14 days after such certified statements are filed.
- m. ORS 671.560, 701.055. If Contractor is performing work as a landscape contractor as defined in ORS 671.520(2), contractor must have a current, valid landscape contractor's license issued under ORS 671.560. If Contractor is performing work as a Contractor as defined in ORS 701.005(2), Contractor must have a current, valid construction contractor's license issued under ORS 701.055. Contractor shall maintain in effect all licenses, permits and certifications required for the performance of the work. Contractor shall notify Owner immediately if any license, permit, or certification required for performance of this Contract shall cease to be in effect for any reason.
21. **Quality of Goods and Services.** Unless otherwise specified, all materials shall be new and both workmanship and materials shall be of the highest quality. All workers and subcontractors shall be skilled in their trade. Contractor guarantees all work against defects in material or workmanship for a period of one (1) year from the date of acceptance or final payment from Owner, whichever is later. Contractor shall assign all manufacturers warranties to Owner and all guarantees and warranties of goods supplied under this Contract shall be deemed to run in to the benefit of Owner. Contractor shall provide Owner with all manufacturer's warranty documentation and operations and maintenance manuals.
22. **Errors.** The Contractor shall perform such additional work as may be necessary to correct errors in the work required under this contract without undue delays and without additional cost.
23. **Access to Records.** The Contractor agrees that the Owner and its authorized representatives shall have access to the books, documents, papers and records of the Contractor which are directly pertinent to the specific contract for the purpose of making audit, examination, excerpts and transcripts.
- Contractor shall maintain all fiscal records directly relating to this Contract in accordance with generally accepted accounting principles. In addition, Contractor shall maintain any other records pertinent to this Contract in such a manner as to clearly document Contractor's performance. Contractor acknowledges and agrees that the Owner's duly authorized representatives shall have access to such fiscal records and other books, documents, papers, plans and writings of Contractor that are pertinent to this Contract to perform examinations and audits and make excerpts and transcripts. Contractor shall retain and keep accessible all such fiscal records, books, documents, papers, plans, and writings for a minimum of three (3) years, or such longer period as may be required by applicable law, following final payment and termination of this Contract, or until the conclusion of any audit, controversy or litigation arising out of or related to this Contract, whichever date is later.
24. **Ownership of Work.** All work products created by the Contractor as part of Contractor's performance of this Contract, including background data, documentation and staff work that is preliminary to final reports, shall be the exclusive property of the Owner. If any such work products contain intellectual property of the Contractor that is or could be protected by federal copyright, patent, or trademark laws, Contractor hereby grants the Owner a perpetual, royalty-free, fully paid-up, non-exclusive and irrevocable license to copy, reproduce, deliver, publish, perform, dispose of, use, re-use, in whole or in part, and to authorize others to do so, all such work products. The Owner shall have no rights in any pre-existing work product of Contractor provided to the Owner by Contractor in the performance of this contract except to copy, use and re-use any such work product for Owner use only. If this contract is terminated by either party or by default, the Owner, in

addition to any other rights provided by this contract, may require the Contractor to transfer and deliver such partially completed work products, reports or other documentation that the Contractor has specifically developed or specifically acquired for the performance of this contract.

**25. When Work Is Performed on Owner Property (Including Schools) Contractor Shall Comply With the Following:**

- a. Identification Contractor performing works on Owner Property or for Owner shall be in full uniform at all times. Uniforms shall include shirt with company identification attached. In addition, all such persons shall carry photo identification and will present such, to anyone on request. If such identification cannot be produced by Contractor, or is not acceptable to Owner, Owner may provide at its sole discretion, such identification tags to Contractor. Contractor shall bear the entire cost of producing and assigning such identification. Contractors that do not have specific uniforms for employees, shall provide identification tags as described above, and or any other mechanism, the Owner in its sole discretion determines is required to easily identify Contractors.
- b. Sign-in Required. As required by schools and other Owner locations, each day of work Contractor's employees shall sign into the Main Office to receive an in-school identification/visitors tag to be displayed on the person at all times they are in the school or other location.
- c. No Smoking. Smoking or other use of tobacco is prohibited on the Owner property.
- d. No Drugs. Owner property sites are designated drug-free zones enforced by the Portland Police Bureau.
- e. No Weapons or Firearms. Except as provided by Oregon Statutes and Owner policy, weapons and firearms are prohibited on Owner property.

**26. Warranty.**

- a. The Contractor warrants to the Owner and Architect that materials and equipment furnished under the Contract will be of good quality and new unless otherwise required or permitted by the Contract Documents, that the Work will be free from defects not inherent in the quality required or permitted, and that the Work will conform to the requirements of the Contract Documents. Work not conforming to these requirements, including substitutions not properly approved and authorized, may be considered defective. The Contractor's warrant excludes remedy for damage or defect caused by abuse, modifications not executed by the Contractor, improper or insufficient maintenance, improper operation, or normal wear and tear and normal usage. If required by the Architect or the Owner, the Contractor shall furnish satisfactory evidence as to the kind and quality of materials and equipment.
- b. If, after 10 days' notice, the Contractor fails to proceed to cure any breach of this warranty, the Owner may have the defects corrected and the Contractor and its surety shall be liable for all expense incurred. In case of an emergency where, in the opinion of the Owner or the Architect, delay would cause serious loss or damage, corrective work may be undertaken without advance notice to the Contractor, but the Contractor and its surety shall remain liable for all expenses incurred. The remedies stated in this subparagraph are not exclusive, but are cumulative of any other remedies the Owner may have.
- c. The Contractor shall assign to the Owner, and shall deliver to the Owner, all manufacturers' warranties not later than the date of final acceptance of the Work by the Owner.

**27. Employees of Contractor.** At the direction of the Owner, contractor will immediately remove any employee of contractor from all Owner premises where the Owner determines, in its sole discretion; removal of such employee would be in the best interests of the Owner.

**28. Security.** Any disclosure or removal of any matter and/or property, not in conjunction with the specifications, on the part of the Contractor or Contractor's employees shall be cause for immediate cancellation of the contract. Any liability, including, but not limited to, attorney fees, resulting from any action or suit brought against the Owner as a result of the Contractor's or Contractor's employees' willful or negligent release of information, documents or property contained in or on Owner property shall be borne by the Contractor. All information, documents and property contained within these facilities shall be considered privileged and confidential.

**29. Indemnification.** To the fullest extent permitted by law, the Contractor shall indemnify and hold harmless the Owner, Architect, Architect's consultants, 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, 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), but only to the extent caused by the negligent acts or omissions of the Contractor, a subcontractor, anyone directly or indirectly employed by them or anyone for whose acts they may be liable, regardless of whether or not such claim, damage, loss or expense is caused in part by a party indemnified hereunder. Such obligation shall not be construed to negate, abridge, or reduce other rights or obligations of indemnity which would otherwise exist as to a party or person described in this Paragraph 32.

**30. Insurance.** Prior to beginning the Work, the Contractor shall provide insurance in accordance with Exhibit 2.

**31. Waiver.** Waiver of any default under this Contract by the Owner shall not be deemed to be a waiver of any subsequent default or a modification of the provisions of this Contract.

**32. Arbitration.**

- a. Any Claim arising out of or related to the Contract, except those waived as provided for in Subparagraph 18, shall, after decision by the Architect or 30 days after submission of the Claim to the Architect, be subject to arbitration. At any time, party(ies) may endeavor to resolve disputes by mediation.
- b. Claims shall be decided by arbitration which, unless the parties mutually agree otherwise, shall be in accordance with the rules of Arbitration Service of Portland, Inc. The demand for arbitration shall be filed in writing with the other party to the Contract and with the Arbitration Service of Portland, Inc., and a copy shall be filed with the Architect. Exclusive venue for arbitration shall be in Portland, Oregon.
- c. A demand for arbitration shall be made within a reasonable time after the Claim has arisen, and in no event shall it be made after the date when institution of legal or equitable proceedings based on such Claim would be barred by the applicable statute of limitations.

**33. Governing Law.** The provisions of this Contract shall be construed in accordance with the laws of the State of Oregon and, rules of the Owner, as they appear at the time of signing or any subsequent addenda. Any legal action involving any question arising under this Contract must be brought in Washington County Circuit Court. If the claim must be brought in a federal forum, then it shall be brought and conducted in the United States Owner Court for the State of Oregon.

**34. Severability.** If any term or provision of this Contract is declared by a court of competent jurisdiction to be illegal or in conflict with any law, the validity of the remaining terms and provisions shall not be affected, and the rights and obligations of the parties shall be construed and enforced as if the Contract did not contain the particular term or provision held invalid.

**35. Merger Clause.** This Contract and the attached exhibits constitute the entire agreement between the parties. All understandings and agreements between the parties and representations by either party concerning this Contract are contained in this Contract. No waiver, consent, modification or change in the terms of this

Contract shall bind either party unless in writing signed by both parties. Any written waiver, consent, modification or change shall be effective only in the specific instance and for the specific purpose given.

36. **Anti-discrimination Clause.** Contractor must comply with all applicable requirements of federal and state civil rights law and rehabilitation statutes and shall not discriminate based on race, religion, color, sex, marital status, familial status, national origin, age, mental or physical disability, or political affiliation in programs, activities, services, benefits or employment.
37. **Attorney Fees.** If a suit or action is filed to enforce any of the terms of this contract, including a request for arbitration under Paragraph 35 of this Agreement, the prevailing party shall be entitled to recover from the other party, in addition to costs and disbursements provided by statute, any sum which a court, including any appellate court, or arbitrator may adjudge reasonable as attorney's fees. In the event the prevailing party is represented by "in-house" counsel, the prevailing party shall nevertheless be entitled to recover reasonable attorney fees based upon the reasonable time incurred and the attorney fee rates and charges reasonably and generally accepted in the metropolitan Portland, Oregon area for the type of legal services performed.
38. **Rule of Construction.** The rule of construction that a contract is construed against the drafter shall not apply to any dispute over the interpretation of application of the contract.
39. **Removal of Debris.** Contractor shall remove all trash and debris from the site for disposal. Contractor shall clean the work area and remove all trash, debris and tools at least daily prior to leaving the job site and as needed to maintain a safe work area.

SAMPLE

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**CONTRACTOR DATA AND SIGNATURE**

Business Name:

Business Address:

Contractor Phone:

Federal Tax ID# or Social Security #:

Is Contractor a nonresident alien?

Yes     No

Business Designation (check one):

Sole Proprietorship

Partnership

Corporation-for profit

Corporation-non-profit

Other [describe here: \_\_\_\_\_]

Federal tax ID numbers or Social Security numbers are required pursuant to ORS 305.385 and will be used for the administration of state, federal and local laws. Payment information will be reported to the Internal Revenue Service under the name and Federal tax ID number or, if none, the Social Security number provided above.

**I have read this Contract including the attached Exhibits. I certify that I have the authority to sign and enter into this Contract. I understand the Contract and agree to be bound by its terms.**

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Title

\_\_\_\_\_  
Name (please print)

\_\_\_\_\_  
Date

NOTE: Contractor must also sign Exhibit 3 and (if applicable) Exhibit 4.

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**COLUMBIA GORGE COMMUNITY COLLEGE  
SIGNATURE**

(This contract is not binding on the Owner until signed the appropriate signing authority)

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Title

\_\_\_\_\_  
Date

\_\_\_\_\_  
Name (please print)

EXHIBIT 1

COLUMBIA GORGE COMMUNITY COLLEGE  
SMALL CONSTRUCTION PROJECTS CONTRACT

STATEMENT OF WORK, COMPENSATION,  
PAYMENT and RENEWAL TERMS

1. **Contractor shall perform the following work:**
2. **The maximum total payment under this Contract, including expenses, is as set forth in Section 1 of this Exhibit.**
3. **The Owner shall pay Contractor on the following basis:** See Section 11 in the Contract.

Payments shall be made to the address below:

4. **Contractor will invoice the Owner for the work as follows:**

Invoices shall be submitted to the address below:

Enter Name Of Owner Staff Member Responsible For Payment Authorization.  
Enter Department, Program, Section, Or School Name  
Sherwood School Owner  
PO Box 3107  
Portland, OR 97208-3107

5. **Owner will pay expenses on the following terms and conditions:** Expenses are included in the above-noted contract price.
6. **This contract may be renewed on the following basis:** NOT RENEWABLE

## EXHIBIT 2

### COLUMBIA GORGE COMMUNITY COLLEGE

### SMALL CONSTRUCTION PROJECTS CONTRACT

#### INSURANCE REQUIREMENTS

Contractor shall at all times maintain in force at Contractor's expense, each insurance noted below:

**Workers Compensation** insurance in compliance with ORS 656.017, which requires subject employers to provide workers' compensation coverage in accordance with ORS Chapter 656 for all subject workers. Contractor and all subcontractors of Contractor with one or more employees must have this insurance unless exempt under **ORS 656.027** (See Exhibit 4).

**THIS COVERAGE IS REQUIRED.** Attach Certificate of Insurance. If Contractor does not have coverage and claims to be exempt, attach Exhibit 4 in lieu of Certificate.

**Professional Liability / Errors & Omissions (E&O)** insurance with a combined single limit of not less than:

\$500,000,  \$1,000,000,  \$2,000,000 each claim, incident, or occurrence, with an annual aggregate limit of  \$500,000,  \$1,000,000,  \$2,000,000. This is to cover damages caused by error, omission, or negligent acts related to professional services provided under this Contract. This coverage must be provided and remain in force for two years after the completion of the contract.

Required by Owner  Not required by Owner

**Commercial General Liability** insurance, on an occurrence basis, with a limit of not less than:

\$500,000,  \$1,000,000,  \$2,000,000 each occurrence for Bodily/Personal Injury and Property Damage, with an annual aggregate limit of  \$500,000,  \$1,000,000,  \$2,000,000. This insurance must include contractual liability coverage.

Required by Owner  Not required by Owner

**Commercial Automobile Liability** insurance with a combined single limit, or the equivalent of not less than:

\$500,000,  \$1,000,000,  \$2,000,000 each occurrence for Bodily Injury/Personal Injury, and Property Damage, including coverage for owned, hired or non-owned vehicles.

Required by Owner  Not required by Owner

**Builders All-Risk** insurance policy to cover the course of construction and all materials or equipment furnished or incorporated into the Work. The policy shall be equal to 100% of the contracted value of the work, and cover all property of an insurable nature, which is either in place or intended to be used as part of the permanent structure. This insurance shall include the interest of Owner in the Work and shall insure against the perils of fire and extended coverage and shall include "all risk" insurance for physical loss or damage, including without limitation and without duplication of coverage, for theft, vandalism, and malicious mischief. Losses up to the deductible amount shall be the responsibility of the Contractor.

This insurance shall be primary and not contributory to any Owner provided insurance. No Work shall be performed, nor shall Contractor's equipment or materials be stored on Owner's premises until a certificate evidencing such insurance has been delivered to and approved by Owner.

Required by Owner  Not required by Owner

**Additional Requirements.** Coverage must be provided by an insurance company admitted to do business in Oregon or rated A- or better by Best's Insurance Rating. Contractor shall pay all deductibles and retentions. A cross-liability clause or separation of insureds condition must be included in all commercial general liability policies required by this Contract. Contractor's coverage will be primary in the event of loss.

**Certificate(s) of Insurance Required.** Contractor shall furnish a current Certificate(s) of Insurance to the Owner prior to contract execution. The Certificate(s) shall provide that there shall be no cancellation, termination, material change, or reduction of limits of the insurance coverage without 30 days written notice from the Contractor's insurer to the Owner. The Certificate(s) shall also state the deductible or retention level. For commercial general liability the Certificate shall also provide that the Owner, its agents, officers, and employees are Additional Insureds with respect to Contractor's services to be provided under this Contract. An additional insured endorsement shall be attached to the certificate of insurance. No work shall commence until the certificate and additional insured endorsement are received by the Owner. If requested, complete copies of insurance policies shall be provided to the Owner.

Reviewed by: \_\_\_\_\_

Date: \_\_\_\_\_

SAMPLE

EXHIBIT 3

COLUMBIA GORGE COMMUNITY COLLEGE

SMALL CONSTRUCTION PROJECTS CONTRACT

CERTIFICATION STATEMENT FOR CORPORATION  
OR INDEPENDENT CONTRACTOR

**NOTE: Contractor Must Complete A or B below:**

**A. CONTRACTOR IS A CORPORATION, LIMITED LIABILITY COMPANY OR A PARTNERSHIP.**

I certify under penalty of perjury that Contractor is a [check one]:

Corporation  Limited Liability Company  Partnership authorized to do business in the State of Oregon.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Title

\_\_\_\_\_  
Date

OR

**B. CONTRACTOR IS A SOLE PROPRIETOR WORKING AS AN INDEPENDENT CONTRACTOR.**

Contractor certifies under penalty of perjury that the following statements are true:

1. If Contractor is providing labor or services under this Contract for which registration is required under ORS Chapter 701, Contractor has registered as required by law, **and**
2. If Contractor performed labor or services as an independent Contractor last year, Contractor filed federal and state income tax returns last year in the name of the business (or filed a Schedule C in the name of the business as part of a personal income tax return), **and**
3. Contractor represents to the public that the labor or services Contractor provides are provided by an independently established business, **and**
4. All of the statements checked below are true.

**NOTE: Check all that apply. You must check at least four (4) to establish that you are an Independent Contractor.**

- A. The labor or services I perform is primarily carried out at a location that is separate from my residence or is primarily carried out in a specific portion of my residence that is set-aside as the location of the business.
- B. I purchase commercial advertising or I have business cards for my business, or I am a member of a trade association.
- C. My business telephone listing is separate from my personal residence telephone listing.
- D. I perform labor or services only under written contracts.
- E. Each year I perform labor or services for at least two different persons or entities.
- F. I assume financial responsibility for defective workmanship or for service not provided by purchasing performance bonds, errors and omission insurance or liability insurance, or providing warranties relating to the labor or services I provide.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

COLUMBIA GORGE COMMUNITY COLLEGE

SMALL CONSTRUCTION PROJECTS CONTRACT

WORKERS' COMPENSATION EXEMPTION CERTIFICATE

(To be used only when Contractor claims to be exempt from Workers' Compensation coverage requirements)

Contractor is exempt from the requirement to obtain workers' compensation insurance under ORS Chapter 656 for the following reason (check the appropriate box):

**SOLE PROPRIETOR**

- Contractor is a sole proprietor, and
- Contractor has no employees, and
- Contractor will not hire employees to perform this contract.

**CORPORATION - FOR PROFIT**

- Contractor's business is incorporated, and
- All employees of the corporation are officers and directors and have a substantial ownership interest\* in the corporation, and
- All work will be performed by the officers and directors; Contractor will not hire other employees to perform this contract.

**CORPORATION - NONPROFIT**

- Contractor's business is incorporated as a nonprofit corporation, and
- Contractor has no employees; all work is performed by volunteers, and
- Contractor will not hire employees to perform this contract.

**PARTNERSHIP**

- Contractor is a partnership, and
- Contractor has no employees, and
- All work will be performed by the partners; Contractor will not hire employees to perform this contract, and
- Contractor is not engaged in work performed in direct connection with the construction, alteration, repair, improvement, moving or demolition of an improvement to real property or appurtenances thereto.\*\*

**LIMITED LIABILITY COMPANY**

- Contractor is a limited liability company, and
- Contractor has no employees, and
- All work will be performed by the members; Contractor will not hire employees to perform this contract, and
- If Contractor has more than one member, Contractor is not engaged in work performed in direct connection with the construction, alteration, repair, improvement, moving or demolition of an improvement to real property or appurtenances thereto.\*\*

\*NOTE: Under OAR 436-50-050 a shareholder has a "substantial ownership" interest if the shareholder owns 10% of the corporation, or if less than 10% is owned, the shareholder has ownership that is at least equal to or greater than the average percentage of ownership of all shareholders.

\*\*NOTE: Under certain circumstances partnerships and limited liability companies can claim an exemption even when performing construction work. The requirements for this exemption are complicated.

\_\_\_\_\_  
Contractor Printed Name

\_\_\_\_\_  
Contractor Signature

\_\_\_\_\_  
Contractor Title

\_\_\_\_\_  
Date

**COLUMBIA GORGE COMMUNITY COLLEGE**  
**SMALL CONSTRUCTION PROJECTS CONTRACT**  
**HAZARDOUS MATERIALS REQUIREMENTS**

Hazardous Materials are any substance defined or designated as being radioactive, infectious, hazardous, dangerous, or toxic by any federal, state, or local statute, regulation, or ordinance presently in effect or subsequently enacted.

1. With respect to Hazardous Materials to be used during the course of the Work, the Contractor will implement and enforce a program to inventory and properly store and secure all Hazardous Materials that may be used or present on the Project site, maintain available for inspection at the Project site all material safety data sheets, and comply with all regulations required by law for the storage, use, and disposal of Hazardous Materials. The program must provide for notification of all personnel of potential chemical hazards. Review of these hazards must be included in the Contractor's safety training program. The Contractor shall submit to the Owner a list of all Hazardous Materials to be brought by the Contractor or its subcontractors onto the Owner's property, including the purpose for their use on the Project.
2. In the event of a release or discovery of Hazardous Materials, or if it is foreseeable that injury or death to persons may occur because of any material or substance (including but not limited to Hazardous Materials) encountered on the site, the Contractor shall immediately (a) stop the Work or the portion of the Work affected, (b) protect against exposure of persons to the material or substance, and (c) notify the Owner and the Architect orally and in writing. The Contractor shall provide all written warnings, notices, reports, or postings required at law or by contract for the existence, use, release, or discovery of Hazardous Materials.
3. With respect to any Hazardous Materials or other material or substance reported to the Owner pursuant to paragraph 2 above that was not introduced to the Project site by the Contractor or its subcontractors or any tier, the Owner shall obtain the services of a licensed laboratory to verify the presence or absence of the material or substance reported by the Contractor 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 Contract Documents, the Owner shall furnish in writing to the Contractor and Architect 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 Contractor and the Architect will promptly reply to the Owner in writing stating whether or not either has reasonable objection to the persons or entities proposed by the Owner. If either the Contractor or Architect has an objection to a person or entity proposed by the Owner, the Owner shall propose another to whom the Contract and the Architect have no reasonable objection. When the material or substance has been rendered harmless, Work in the affected area shall resume upon agreement of the Owner and Contractor. The Contract Time may, subject to agreement by the Owner and the Contractor, be extended appropriately and the Contract Sum shall be increased in the amount of the Contractor's reasonable additional costs of shut-down, delay and start-up, which adjustments shall be accomplished as provided in Article 11 of the Standard Terms and Conditions.
4. With respect to any Hazardous Materials or other materials or substance reported to the Owner pursuant to paragraph 2 that was introduced to the Project site by the Contractor or its subcontractors or any tier, the Contractor shall be responsible to carry out the duties of (a) proposing to the Owner and the Architect an acceptable licensed laboratory and any needed remediation contractor, (b) obtaining and paying for the services of the laboratory and contractor, and (c) verifying that the material is rendered harmless, as otherwise set forth in paragraph 3. The Contractor will not be entitled to an increase in the Contract Sum as stated in the last sentence of paragraph 3 if the Contractor or any subcontractor under its supervision is responsible for the condition requiring the testing of the material and the stoppage of the Work. Remediation work must be conducted by properly authorized contractors approved in advance by the Owner. Generally, the Owner will contract directly with remediation contractors, regardless of whether the work will be performed at the Contractor's expense.
5. To the fullest extent permitted by law, the Owner shall indemnify and hold harmless the Contractor, subcontractors, Architect, Architect's consultants 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 was not introduced to the Project site by the Contractor or its subcontractors of any tier, presents the risk of bodily injury or death as described in paragraph 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). This subparagraph is applicable only to the extent that the damages, loss, or expense is not the fault of the party seeking indemnity.

6. To the fullest extent permitted by law, the Contractor shall indemnify and hold harmless the Owner, the Owner's representative, the Architect, and the Architect's consultants and agents and employees of any of them from and against claims, damages, losses, and expenses, including but not limited to attorney fees, arising out of or resulting from performance of the Work in the affected area if in fact the material or substance was introduced to the Project site by the Contractor or its subcontractors of any tier, presents the risk of bodily injury or death as described in paragraph 1, and has not been rendered harmless. This subparagraph is applicable only to the extent that the damages, loss, or expense is not the fault of the party seeking indemnity.

\_\_\_\_\_  
Contractor Printed Name

\_\_\_\_\_  
Contractor Signature

\_\_\_\_\_  
Contractor Title

\_\_\_\_\_  
Date

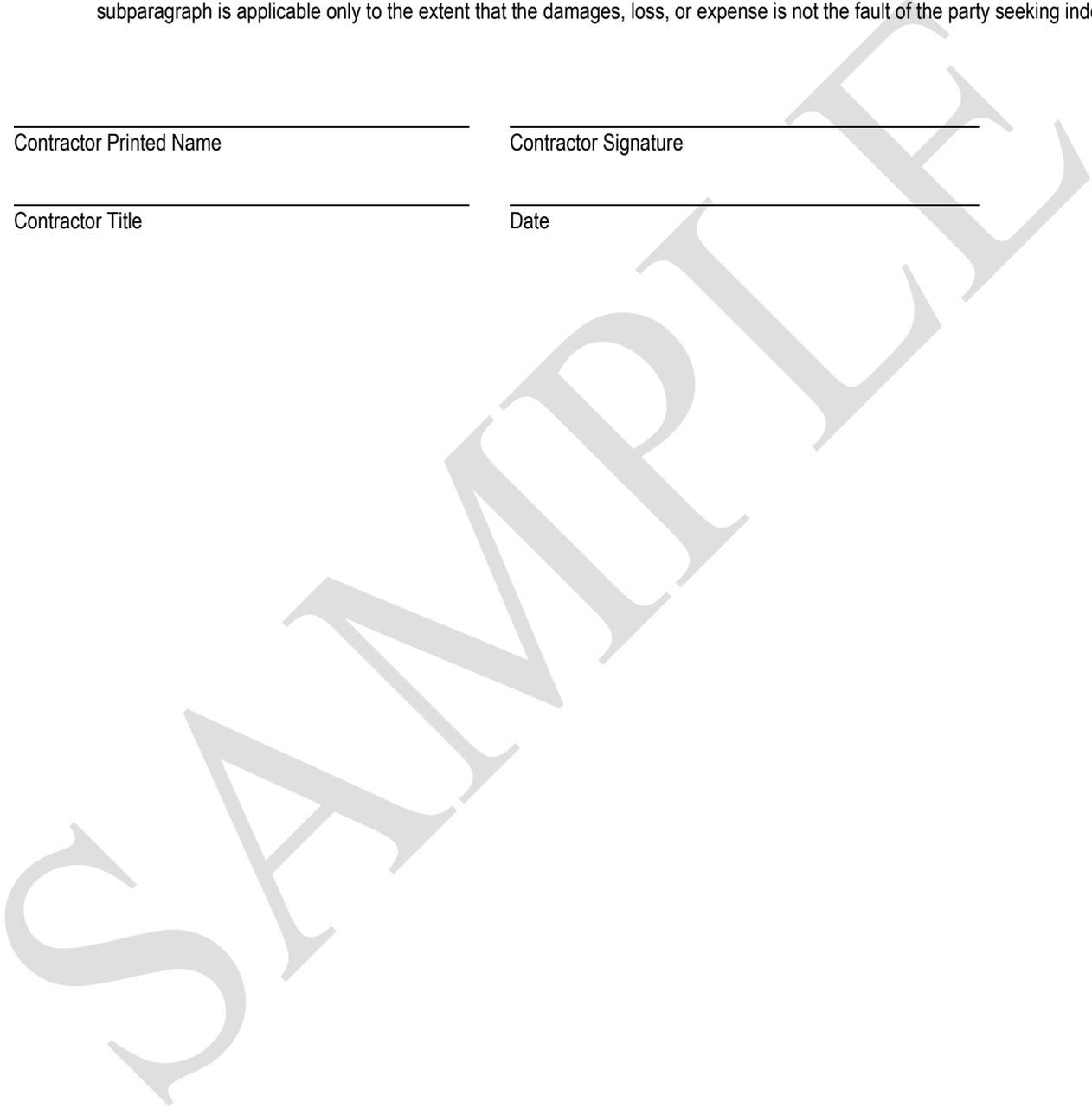


EXHIBIT 6

NOT APPLICABLE

COLUMBIA GORGE COMMUNITY COLLEGE  
SMALL CONSTRUCTION PROJECTS CONTRACT  
PROJECT MANUAL/GENERAL CONDITIONS

SAMPLE