



University of Washington

(Name of Project and Number)
00 50 01

Contract Between Owner and Design-Builder - Lump Sum

This **CONTRACT** is made and entered into by and between the following parties, for services in connection with the Project identified below. This Contract shall be effective on the date last set forth on the signature page.

OWNER:

**University of Washington Facilities
Project Delivery Group
University District Building
Box 352205
Seattle, Washington 98195-2205**

DESIGN-BUILDER:

(Name and address)

PROJECT:

In consideration of the mutual covenants and obligations contained herein, Owner and Design-Builder agree as set forth herein.

Article 1

Scope of Work

1.1 Design-Builder shall perform all design and construction services, and provide all material, equipment, tools and labor, necessary to complete the Work described in and reasonably inferable from the Contract Documents.

Article 2

Contract Documents

2.1 The Contract Documents are comprised of the following which are incorporated herein by this reference:

2.1.1 All written modifications, amendments, and change orders to this Contract issued in accordance with the General Conditions of the Contract ("General Conditions");

2.1.2 This Contract, including all exhibits and attachments, executed by Owner and Design-Builder;

2.1.3 The General Conditions;

2.1.4 The Basis of Design Documents, including but not limited to, Request for Qualifications, Request for Proposals and any Addenda thereto, Design-Builder's Statement of Qualifications and its Proposal submitted in response to the Owner's Request for Proposals, and Design-Builder's Proposal dated *(date to be filled in upon preparation of this Contract)* submitted under the Preliminary Agreement Between Owner and Design-Builder, as accepted by Owner (Attachment A hereto); and

2.1.5 Construction Documents prepared and approved in accordance with Section 2.4 of the General Conditions.

Article 3

Interpretation and Intent

3.1 Design-Builder and Owner, prior to execution of the Contract, shall carefully review all the Contract Documents, including the various documents comprising the Basis of Design Documents, for any conflicts or ambiguities. Design-Builder and Owner will discuss and resolve any identified conflicts or ambiguities prior to execution of the Contract.

3.2 The Contract Documents are intended to permit the parties to complete the Work and all obligations required by the Contract Documents within the Contract Time(s) for the Contract Price. The Contract Documents are intended to be complementary and interpreted in harmony so as to avoid conflict, with words and phrases interpreted in a manner consistent with construction and design industry standards. In the event inconsistencies, conflicts, or ambiguities between or among the Contract Documents are

discovered after execution of the Contract, Design-Builder and Owner shall attempt to resolve any ambiguity, conflict or inconsistency informally, recognizing that the Contract Documents shall take precedence in the order in which they are listed in Section 2.1 hereof. Conflicts existing within Section 2.1.4 shall be resolved by giving precedence first to the Design-Builder's Proposal submitted under the Preliminary Agreement, and then the Design-Builder's Proposal submitted in response to the Owner's Request for Proposals.

3.3 Terms, words and phrases used in the Contract Documents, including this Contract, shall have the meanings given them in the General Conditions.

3.4 The Contract Documents form the entire Contract between Owner and Design-Builder and supersedes prior negotiations, representations or agreements, either written or oral. No oral representations or other agreements have been made by the parties except as specifically stated in the Contract Documents. The Contract Documents shall not be construed to create a contractual relationship of any kind between any Persons other than Owner and Design-Builder.

Article 4

Ownership of Work Product

4.1 Instruments of service. The Drawings (including original Construction Documents), Specifications, materials, models, sketches, renderings, surveys, reports, and other documents, including those prepared as 3D electronic models, using CAD, and existing in other electronic formats, prepared or provided by Design-Builder are instruments of service intended for use solely with respect to the Project. Owner shall be permitted to retain copies, including reproducible and originally stamped copies, of all instruments of service, and is granted an unlimited and royalty free license to utilize instruments of service to communicate about the Project, expand the Project, correct any deficiencies, make any renovations or repairs to the Project, or for future projects other than the construction of another building. Owner agrees to indemnify and hold Design-Builder harmless from any subsequent modification of the instruments of service by Owner and from Owner's use of the instruments of service on other projects.

4.2 Design-Builder to convey instruments of service to Owner. Upon Owner's request if made during the Project or within five (5) years of Substantial Completion, Design-Builder shall be required to convey to Owner in whatever format Owner may designate instruments of service for the completion, use, updating, modernizing, and maintenance of the Project, conditioned upon Owner's agreement to indemnify and hold harmless the Design-Builder as set forth above.

4.3 Submission of instruments of service does not waive rights. Submission or distribution of Design-Builder's instruments of service to meet official regulatory requirements or for similar purposes in connection with the Project shall not be construed as publication in derogation of any rights reserved in this Section.

Article 5

Contract Time

5.1 Date of Commencement. The Work shall commence within five (5) days of Design-Builder's receipt of Owner's Notice to Proceed ("Date of Commencement") unless the parties mutually agree otherwise in writing.

5.2 Substantial Completion and Final Completion.

5.2.1 Substantial Completion of the entire Work shall be achieved within (number of calendar days to be filled) calendar days after the Date of Commencement ("Scheduled Substantial Completion Date").

5.2.2 For a minimum of ninety (90) calendar days after Substantial Completion or until Final Completion is achieved, whichever is later, provide adequate qualified on-site staff that is authorized to act on behalf of the Design-Builder to coordinate and insure that any outstanding work items, Punch List, testing and commissioning are completed, at no additional cost to the Owner.

5.2.3 Final Completion of the Work or identified portions of the Work shall be achieved as expeditiously as reasonably practicable. Final Completion is the date when all Work is complete pursuant to the definition of Final Completion set forth in Section 1.2.7 of the General Conditions.

5.2.4 All of the dates set forth in this Article 5 (collectively the "Contract Time(s)") shall be subject to adjustment in accordance with the General Conditions.

5.3 Time is of the Essence. Owner and Design-Builder mutually agree that time is of the essence with respect to the dates and times set forth in the Contract Documents.

5.4 Liquidated Damages. Design-Builder understands that if Substantial Completion is not attained by the Scheduled Substantial Completion Date, Owner will suffer damages which are difficult to determine and accurately specify. Design-Builder agrees that if Substantial Completion is not attained by the Scheduled Substantial Completion Date (the "LD Date"), Designer-Builder shall pay Owner (amount to be filled in) \$ as liquidated damages for each day that Substantial Completion extends beyond the LD Date.

5.5 Any liquidated damages assessed pursuant to this Contract shall be in lieu of all liability for any and all extra costs, losses, expenses, claims, penalties and any other damages, whether special or consequential, and of whatsoever nature incurred by Owner which are caused by any delay in achieving the Contract Time(s), provided this limitation shall not apply to Design-Builder's duty to indemnify the Owner as provided in this Contract.

Article 6

Contract Price

6.1 Contract Price. Owner shall pay Design-Builder in accordance with Article 6 of the General Conditions (an amount to be determined and filled in) ("Contract Price"), subject to adjustments made in accordance with the General Conditions. Unless otherwise provided in the Contract Documents, the Contract Price is exclusive of Washington State Sales Tax, but is otherwise deemed to include all use, consumer, B&O, income, and other taxes mandated by applicable legal requirements. By executing this Contract, Design-Builder represents and acknowledges that the Contract Price is reasonable compensation for all the Work, that the Contract Time is adequate for the performance of the Work, and that it has carefully examined the Contract Documents and the Project Site and that it has satisfied itself as to the nature, location, character, quality and quantity of the Work, the labor, materials, equipment, goods, supplies, work, services and other items to be furnished and all other requirements of the Contract Documents, as well as the surface conditions and other foreseeable matters that may be encountered at the Project Site or affect performance of the Work or the cost or difficulty thereof, including but not limited to those conditions and matters affecting: transportation, access, disposal, handling and storage of materials, equipment and other items; availability of labor, water, electric power and utilities; drainage; availability and condition of roads; normal climatic conditions and seasons; physical conditions at the Project Site and the surrounding locality; topography; and equipment and facilities needed preliminary to and at all times during the performance of the Work.

6.2 Markups for Changes. If the Contract Price requires an adjustment due to changes in the Work, or for any other purpose, including Claims, and a lump sum is not agreed upon, the following markups shall be allowed on such adjustments as an allowance for all combined overhead, profit and other costs, including all office, home office and site overhead (including project manager, project engineer, and superintendent, except for pre-agreed extra work they perform caused by acceleration or an extension in the Contract Time), taxes (except for sales tax), safety costs, and delay and impact costs of any kind, added to the total cost to Owner of any Change Order, Work Change Directive, Claim or any other claim of any kind on this Project:

[Note: the percentage amounts which follow shall be filled in upon preparation of this Contract]

6.2.1 Design-Builder shall receive _____ percent (_____%) of fixed-price costs or _____ percent (_____%) of the time-and-material costs of any materials supplied and/or work properly performed by Design-Builder's own forces.

6.2.2 Design-Builder shall receive _____ percent (_____%) of fixed-price costs or _____ percent (_____%) of the time-and-material costs owed directly to a Subcontractor for materials supplied and/or Work properly performed by that Subcontractor or owed directly to a Design Consultant for services it properly performs.

6.2.3 Each "lump-sum" Subcontractor of any tier shall receive _____ percent (_____%) of fixed-price costs or _____ percent (_____%) of the time-and-material costs of any materials properly supplied and/or Work properly performed by its own forces.

6.2.4 Each "lump-sum" Subcontractor of any tier shall receive _____ percent (_____%) of fixed-price costs or _____ percent (_____%) of the time-and-material costs owed directly to a lower-tier "lump-sum" Subcontractor for materials supplied and/or Work properly performed by that Subcontractor.

6.2.5 The total summed mark-up of Design-Builder and all Subcontractors of any tier shall not exceed _____ percent (_____%).

6.3 Pricing Components. The value of any changed Work that is compensable, of any disputed Work Change Directive and of any other increase or decrease in the Contract Price, including a Claim, shall be an agreed lump sum amount. If no such agreement is achieved, the value shall be limited to the following components:

6.3.1 Direct labor costs. These are the labor costs determined by either the estimated or actual number of additional craft hours and the hourly cost necessary to perform the change in the Work, or the unit labor costs applied to the material quantities and extended, provided the unit labor costs are developed from the above craft hour cost, whichever is applicable, according to industry practice. The hourly cost shall be based upon the following:

6.3.1.1 Basic wages: The hourly wage actually paid the laborers, apprentices, journeymen, and foremen performing and/or directly supervising the changed Work on the Site. The premium portion of overtime wages is not included unless pre-approved by Owner.

6.3.1.2 Fringe benefits: Fringe benefits paid by Design-Builder as established by the Washington Department of Labor and Industries or contributed to labor trust funds as itemized fringe benefits, whichever is applicable.

6.3.1.3 Workers' insurances: Direct contributions to the State of Washington as industrial insurance; medical aid; and supplemental pension by class and rates established by the Washington Department of Labor and Industries.

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

6.3.1.5 Small tool costs: 3% of Basic Wages in Clause 6.3.1.1 above.

6.3.1.6 Travel expenses: Reasonable expenses of travel, to same extent as can be demonstrated were included in calculating the original Contract Price. Design-Builder's pre-approved off-site travel expenses. Travel expenses shall not exceed the State of Washington Office of Financial Management guidelines for travel costs.

6.3.2 Direct material costs. This is an itemization, including material invoice, of the quantity and cost of additional materials necessary to perform the change in the Work. These costs shall be by the unit cost applied to the quantity and extended. The unit cost shall not include discounts or rebates so long as Owner was given a reasonable opportunity and declined to provide payment qualifying for such discount or rebate. The material costs may include normal freight costs; Owner must pre-approve express charges or special delivery costs.

6.3.3 Construction equipment usage costs. This is an itemization of the actual length of time construction equipment other than small tools described in Clause 6.3.1.5 above, appropriate for the Work will be used solely on the change in the Work at the Site times the applicable rental cost as established by the lower of the prevailing rate published in The Rental Rate Blue Book by Data Quest, San Jose, California, or the actual rate paid as evidenced by rental receipts. Actual, reasonable mobilization costs are permitted if the equipment is brought to the Site solely for the change in the Work.

If more than one rate is applicable, the lowest rate will be utilized. The rates in effect at the time of the performance of the Change work are the maximum rates allowable for equipment of modern design and in good working condition and include full compensation for furnishing all fuel, oil, lubrication, repairs, maintenance, and insurance. Equipment not of modern design and/or not in good working condition will have lower rates. Hourly, weekly, and/or monthly rates, as appropriate, will be applied to yield the lowest total cost. The rate for equipment necessarily standing by for future use on the Work shall be fifty percent (50%) of the rate established above.

If equipment is required for which a rental rate is not established by The Rental Rate Blue Book, an agreed rental rate shall be established for that equipment, which rate and use must be approved by Owner prior to performing the changed Work.

6.3.4 Cost of change in insurance or bond premiums. This is defined as:

6.3.4.1 Design-Builders' liability insurance: The cost (expressed as a percentage) of any changes in Design-Builder's liability (including professional errors and omissions) insurance arising directly from the changed Work; and

6.3.4.2 Public works bonds: The cost (expressed as a percentage) of the change in Design-Builder's premium for Design-Builder's bonds arising directly from the changed Work. Upon request, Design-Builder shall provide Owner with supporting documentation from its insurer or surety of any associated cost incurred.

6.3.5 Subcontractor costs. These are payments Design-Builder makes to Subcontractors for changed or extra Work performed by Subcontractors. The Subcontractors' cost of changed Work shall be determined in the same manner as prescribed in this Subparagraph 6.3.

6.3.6 Design Consultant costs. These are payments Design-Builder makes to Design Consultants for additional services performed by Design Consultants arising out of a change in the Work.

6.4 Allowance Items and Allowance Values.

6.4.1 Any and all Allowance Items, as well as their corresponding Allowance Values, are set forth in an Exhibit hereto.

6.4.2 Design-Builder and Owner have worked together to review the Allowance Items and Allowance Values based on design information then available to determine that the Allowance Values constitute reasonable estimates for the Allowance Items. Design-Builder and Owner will continue working closely together during the preparation of the design to develop Construction Documents consistent with the Allowance Values. Nothing herein is intended in any way to constitute a guarantee by Design-Builder that the Allowance Item in question can be performed for the Allowance Value.

6.4.3 No work shall be performed on any Allowance Item without Design-Builder first obtaining in writing advanced authorization to proceed from Owner. Owner agrees that if Design-Builder is not provided written authorization to proceed on an Allowance Item by the date set forth in the Project schedule, due to no fault of Design-Builder, Design-Builder may be entitled to an adjustment of the Contract Time(s) and Contract Price.

6.4.4 The Allowance Value for an Allowance Item includes the direct cost of labor, materials, equipment, transportation, taxes and insurance associated with the applicable Allowance Item. All other costs, including design fees, Design-Builder's overall project management and general conditions costs, overhead and fee, are deemed to be included in the original Contract Price, and are not subject to adjustment, regardless of the actual amount of the Allowance Item.

6.4.5 Whenever the actual costs for an Allowance Item is more than or less than the stated Allowance Value, the Contract Price shall be adjusted accordingly by Change Order, subject to Section 6.3.4. The amount of the Change Order shall reflect the difference between actual costs incurred by Design-Builder for the particular Allowance Item and the Allowance Value.

Article 7

Procedure for Payment

7.1 Progress Payments.

7.1.1 Progress payments will be made monthly for work duly certified, approved, and performed during the calendar month preceding the Application.

7.1.1.1 Draft Application. On or about the 25th of each month, Design-Builder shall submit to Owner a report on the current progress of the Work as compared to Design-Builder's Construction Schedule, and a draft, itemized application for payment for work performed during the current calendar month on a form supplied or approved by Owner. This shall not constitute a payment request. Design-Builder and Owner shall confer regarding the current progress of the Work and the amount of payment to which Design-Builder is entitled. Owner may on occasion request Design-Builder to provide data substantiating Design-Builder's right to payment, such as copies of requisitions from Subcontractors of any tier, and reflecting retainage as provided elsewhere in the Contract Documents.

7.1.1.2 Payment Request. After Design-Builder and Owner have met and conferred regarding the updated draft application, and Design-Builder has furnished all progress information required and all data requested by Owner under 7.1.1.1 above, Design-Builder shall submit to Owner on or before the tenth (10th) day of each month, beginning with the first month after the Date of Commencement, Design-Builder's Application for Payment for Work completed during the previous month in accordance with Article 6 of the General Conditions of Contract on a form supplied or approved by Owner. Among other things, the Application shall state that prevailing wages have been paid in accordance with the pre-filed statements of intent to pay prevailing wages on file with Owner and that all payments due Subcontractors of any tier from Owner's payment the prior month have been made.

7.1.1.3 Subcontractor Payments Reporting Requirements. This Contract is subject to compliance tracking using the State's business diversity management system, Access Equity (B2Gnow). Access Equity is web-based and can be accessed at the Office of Minority and Women's Business Enterprises at <https://omwbe.diversitycompliance.com/>. The Contractor and all Subcontractors shall report and confirm receipt of payments made to the Contractor and each Subcontractor through Access Equity. For purposes of this requirement, Subcontractor means any subcontractor or subconsultant working on the Contract, at any tier and regardless of status as certified WMBE or Non-WMBE. Section 01 29 76, Progress Payment Procedures, describes the full requirements.

7.1.1.4 Disputed Amounts. If Design-Builder believes it is entitled to payment for Work performed during the prior calendar month in addition to the agreed-upon amount, Design-Builder may, also by the tenth (10th) day of the month, submit to Owner along with the approved payment request a separate written payment request specifying the exact additional amount due, the category in the Schedule of Values in which the payment is due, the specific Work for which the additional amount is due, and why the additional payment is due. Furthermore, Design-Builder and all Subcontractors shall file with Owner by the tenth day of the month certified copies of all payroll records relating to the additional amount due.

7.1.1.5 Validity of Payment Requests. A payment request shall not be valid unless it complies with the requirements of the Contract Documents.

7.1.1.6 Certified Payroll. Design-Builder, subcontractor, or employer shall file a copy of its certified payroll records directly with the Department of Labor and Industries online system at least once per month.

7.1.2 Owner shall make payment within thirty (30) days after Owner's receipt of each properly submitted and accurate Application for Payment in accordance with Article 6 of the General Conditions of Contract, but in each case less the total of payments previously made, less retainage, and less amounts properly withheld under Section 6.3 of the General Conditions of Contract.

7.2 Retainage on Progress Payments

7.2.1 Pursuant to Chapter RCW 60.28, the Owner will retain five percent (5%) of each approved Application for Payment to be retained as a trust fund for the protection and payment of the claims of any person arising under the contract and the state with respect to taxes imposed pursuant to Titles 50, 51, and 82 RCW which may be due from Design-Builder. The moneys reserved may, at the option of Design-Builder, be retained in accordance with the provisions of Chapter 60.28 RCW.

7.2.2 Sixty (60) days after Final Acceptance of the entire Work, Owner shall release to Design-Builder all retained amounts in accordance with Chapter 39.12 RCW and Chapter 60.28 RCW, provided that Design-Builder has on file, pursuant to RCW 39.12.040, an "Affidavit of Wages Paid"

from Design-Builder and from each Subcontractor of any tier, approved by the Industrial Statistician of the Department of Labor and Industries, with the fees paid by Design-Builder or Subcontractor of any tier, and, pursuant to RCW 60.28.021, the Owner has received certificates from the Department of Revenue, the Employment Security Department, and the Department of Labor and Industries. If there are either unpaid taxes or unsatisfied claims of lien against the retained percentage, disbursement of retainage funds will be made in accordance with state law.

7.3 Final Payment. Design-Builder shall submit its Final Application for Payment to Owner in accordance with Section 6.7 of the General Conditions of Contract. Owner shall make payment on Design-Builder's properly submitted and accurate Final Application for Payment within thirty (30) days after Owner's receipt of the Final Application for Payment, provided that:

(a) Design-Builder has satisfied the requirements for final payment set forth in Section 6.7.2 of the General Conditions of Contract and

(b) Owner shall have the right to withhold all amounts to which Owner is entitled to withhold pursuant to Section 6.3 of the General Conditions of Contract.

7.4 Interest. Payments due and unpaid by Owner to Design-Builder, whether progress payments or final payment, shall bear interest as specified by RCW 39.76.

7.5 Record Keeping and Finance Controls. With respect to changes in the Work performed on a cost basis by Design-Builder pursuant to the Contract Documents, Design-Builder shall keep full and detailed accounts and exercise such controls as may be necessary for proper financial management, using accounting and control systems in accordance with generally accepted accounting principles and as may be provided in the Contract Documents. During the performance of the Work and for a period of three (3) years after Final Payment, Owner and Owner's accountants shall be afforded access to, and the right to audit from time to time, upon reasonable notice, Design-Builder's records, books, correspondence, receipts, subcontracts, purchase orders, vouchers, memoranda and other data relating to changes in the Work performed on a cost basis in accordance with the Contract Documents, all of which Design-Builder shall preserve for a period of three (3) years after Final Payment. Such inspection shall take place at Design-Builder's offices during normal business hours unless another location and time is agreed to by the parties. Any multipliers or markups agreed to by the Owner and Design-Builder as part of this Contract are only subject to audit to confirm that such multiplier or markup has been charged in accordance with this Contract, with the composition of such multiplier or markup not being subject to audit.

Article 8

Termination for Convenience

8.1 Upon ten (10) days' written notice to Design-Builder, Owner may, for its convenience and without cause, elect to terminate this Contract or any portion of this Contract. If Owner terminates the Work or any portion thereof for convenience, Contractor shall be entitled to make a request for an equitable adjustment for its reasonable direct costs incurred prior to the effective date of the termination, plus reasonable allowance for overhead and profit up to but no more than seven percent (7%) on Work performed prior to termination, plus the reasonable administrative costs of the termination, but shall not be entitled to any other costs or damages, whatsoever.

8.2 In addition to the amounts set forth in Section 8.1 above, if the Owner's termination for convenience under Paragraph 8.1 is not caused by a third-party challenge to the Project (such as, without limitation, an injunction, initiative or force majeure event), Design-Builder shall be entitled to receive one of the following as applicable:

8.2.1 If Owner terminates this Contract prior to commencement of construction, Design-Builder shall be paid up to but no more than two and one-half percent (2.5%) of the remaining balance of the Contract Price.

8.2.2 If Owner terminates this Contract after commencement of construction, Design-Builder shall be paid up to but no more than five percent (5%) of the remaining balance of the Contract Price.

If Owner terminates this Contract pursuant to Section 8.1 above and proceeds to design and construct the Project through its employees, agents or third parties, Owner's rights to use the Work Product shall be as set forth in Article 4 hereof.

8.3 The total sum to be paid to Design-Builder under this Article 8 shall not exceed the Contract Price as reduced by the amount of payments otherwise made, the price of Work not terminated, and as otherwise permitted by this Contract. The amounts payable to Design-Builder shall exclude the fair value of property not under Owner's control which is destroyed, lost, stolen or damaged so as to become undeliverable to Owner.

Article 9

Representatives of the Parties

9.1 Owner's Representatives.

9.1.1 Owner designates the individual listed below as its Senior Representative ("Owner's Senior Representative"), which individual has the authority and responsibility for avoiding and resolving disputes under Section 10.2.3 of the General Conditions:

[Name of Owner's Senior Representative]
Executive Director, [] UW Facilities, Project Delivery Group
University of Washington
University District Building
Box 352205
Seattle, WA 98195-2205
[Phone Number of Owner's Senior Representative]
[E-mail of Owner's Senior Representative]

9.1.2 Owner designates the individual listed below as its Owner's Representative, which individual has the authority and responsibility set forth in Section 3.4 of the General Conditions:

[Name of Project Manager]
Project Manager, [] UW Facilities, Project Delivery Group
University of Washington
University District Building
Box 352205
Seattle, WA 98195-2205
[Phone Number of Project Manager]
[E-mail of Project Manager]

9.2 Design-Builder's Representatives.

9.2.1 Design-Builder designates the individual listed below as its Senior Representative ("Design-Builder's Senior Representative"), which individual has the authority and responsibility for avoiding and resolving disputes under Section 10.2.3 of the General Conditions:

[Name of Design-Builder's Senior Representative]
[Title of Design-Builder's Senior Representative]
[Name of Design-Builder]
[Address of Design-Builder 1]
[Address of Design-Builder 2]
[Phone Number of Design-Builder's Senior Representative]
[E-mail of Design-Builder's Senior Representative]

9.2.2 Design-Builder designates the individual listed below as its Design-Builder's Representative, which individual has the authority and responsibility set forth in Section 2.1.1 of the General Conditions:

[Name of Design-Builder's Representative]
[Title of Design-Builder's Representative]
[Name of Design-Builder]
[Address of Design-Builder 1]
[Address of Design-Builder 2]
[Phone Number of Design-Builder's Representative]
[E-mail of Design-Builder's Representative]

Article 10

Bonds and Insurance

10.1 Design-Builders Insurance.

Design-Builder shall carry the following insurance coverages from insurance carriers acceptable to Owner and which shall be rated no less than A- by A.M. Best. Design-Builder shall give prompt notice to Owner if any carrier falls below this rating. All policies will name the University of Washington as an additional insured, primary and non-contributory basis, with the exception of the Design-Builder's Professional Liability policy.

For all high-risk Design-Build team members, Specialty Consultants, and/or Trade Contractors, the PMT will convene and evaluate the contract values and risk factors, jointly assigning the level of insurance coverage and bonding limits appropriate for all tiers of work. The Owner does not expect Specialty Consultants or Trade Contractors, or their subcontractors, to carry more insurance or bonds beyond the total liability of their individual work/contract obligation. High-risk team members may share a bigger risk and therefore need insurance coverage greater than their contract/work value. Consistent with the Procurement and Equity Plan, the PMT will develop an Insurance Policy Matrix itemizing the recommended insurance limits by sub-package and present to the SMT for review and approval.

10.1.1 Coverages and Limits.

The insurance shall provide the minimum coverages and limits set forth below. Owner shall be provided forty-five (45) days written notice prior to cancellation, ten (10) days written notice for non-payment of premium. Owner does not warrant or represent that such coverages and limits are appropriate or adequate to protect Design-Builder. Neither Owner's specification nor approval of the insurance in this Contract, nor of its amount, nor providing coverage in these stated minimum limits shall be construed to relieve Design-Builder from liability in excess of such limits. Coverages are the minimum to be provided and are not limitations of liability under the Contract, indemnification, or applicable law provisions. Design-Builder may, at its expense, purchase larger coverage amounts. The cost of any claim payments falling within the deductible shall be the sole responsibility of Design-Builder. Design-Builder shall maintain insurance coverage during the Work and for one year after Final Acceptance. Design-Builder shall also maintain

insurance coverage during the performance of any corrective Work required by Section 2.9 of the General Conditions. Design-Builder shall submit upon execution of this Contract Certificates of Insurance as evidence of all insurance required herein:

10.1.2 CGL: A policy of Commercial General Liability Insurance which includes coverage for bodily injury, property damage, premises operations, independent contractors, and broad-form contractual liability, and Stop Gap, unless covered as Employers Liability under Part B of a Worker's Compensation Insurance Policy with the following minimum limits:

| | |
|-------------|--|
| \$2,000,000 | General Aggregate |
| \$2,000,000 | Product-Completed Operations Aggregate |
| \$1,000,000 | Per Occurrence |
| \$1,000,000 | Personal and Advertising Injury |

10.1.3 XCU: The Contractor's CGL insurance must not exclude perils generally known as XCU (explosion, collapse, and underground property damage), subsidence, absolute earth movement (excepts as it pertains to earthquake peril only) or any equivalent peril.

10.1.4 Products Completed Operations Additional Insured: The Contractor's CGL insurance must include the Owner as an additional insured status on the ISO CG 20 10 11 85 or CG 20 37 endorsement, or by an equivalent policy or endorsement provisions. The Products Completed Operations additional insured status for the Owner must remain in effect for not less than 3 years following Final Completion.

Policy shall apply as Primary Insurance with Owner's Insurance Non-Contributory, include a Waiver of Subrogation in favor of the Owner, and contain a separation of insureds provision.

10.1.5 Employer's Liability:

| | | |
|-----|-------------|-------------------------|
| (1) | \$1,000,000 | Each Accident |
| (2) | \$1,000,000 | Disease - Policy Limit |
| (3) | \$1,000,000 | Disease - Each Employee |

10.1.6 Automobile: Commercial Automobile Liability with a combined single limit of not less than \$1,000,000 for each accident. Coverage shall include Bodily Injury and Property Damage Liability for all owned, non-owned, leased, and hired automobiles and contain a Waiver of Subrogation in favor of the Owner. If pollutants are to be transported, MCS 90 and CA 99 48 endorsements are required on the Auto Liability policy unless the transportation pollution risk is covered under the Contractor's Pollution Liability insurance policy.

10.1.7 Excess or Umbrella Liability: The Contractor must provide minimum Excess or Umbrella Liability coverage limits of \$4,000,000 each occurrence in excess of the primary CGL and Automobile liability insurance limits specified in Section 10.1.2 and Section 10.1.6. The minimum total limits of \$5,000,000 may also be satisfied with primary CGL insurance limits or any combination of primary excess/umbrella limits.

10.1.8 Contractors Pollution Liability: A policy providing coverage for claims involving remediation, on or off site, disposal, or other handling of pollutants, including investigation, arising out of Design-Builder's operations, or made worse, including vicarious liability of subcontractors at every tier, from the transportation of hazardous materials; or involving remediation, abatement, repair, maintenance or other work with lead-based paint or materials containing asbestos. Such Pollution Liability policy shall provide at least \$1,000,000 per claim coverage for Bodily Injury and Property Damage. The Design-Builder may require its first-tier Specialty Trade Contractors

performing work described in this section to maintain equivalent insurance coverage.

10.1.9 Design-Builder's Professional Liability: Design-Builder and the Architect shall each maintain for three years after Substantial Completion subject to RCW 4.16.310 (or, if earlier, until demolition of the buildings) professional errors and omissions insurance in an amount no less than \$2 million. Design-Builder shall promptly notify Owner of any material changes to, interruption of, or termination of, this insurance. Design-Builder may contractually require its Specialty Consultants of any tier to maintain professional errors and omissions insurance in an amount of at least \$1 million.

10.1.10 Worker's Compensation: Worker's Compensation coverage, as required by Title 51 RCW. If Design-Builder is qualified as a self-insurer in accordance with Chapter 51.14 RCW, Design-Builder shall so certify by letter signed by a corporate officer indicating that it is a qualified self-insured, and setting forth the limits of any policy of excess insurance covering its employees.

10.1.11 Self-Insurance. At its sole option and in its sole discretion, Owner may accept Design-Builder's self-insurance for liability coverage in lieu of insurance from a commercial insurer. Design-Builder must provide a letter from its Corporate Risk Manager or appropriate Finance Officer representing and warranting the following minimum information: whether the self-insurance program is actuarially funded; the fund limits; any excess declaration pages to meet the contract requirements; a description of how Design-Builder would protect and defend Owner as an Additional Insured in their Self-Insured layer; and claims-handling directions in the event of a claim. Any amounts due to, sought by, or paid to third party claimants shall be the sole responsibility of Design-Builder, irrespective of whether such amount falls wholly within the level or amount of Design-Builder's self-insured retention.

10.2 Design-Builder's Bonds and Other Performance Security. Design-Builder shall provide the following performance bond and labor and material payment bond or other performance security:

10.2.1 Performance and Payment Bonds. Design-Builder shall secure from a surety company acceptable to Owner, admitted and licensed in the State of Washington, and shall pay for bonds covering the faithful performance of the Contract and payment of obligations arising under the Contract Documents, each in the full amount of the Contract Price, including Washington State sales tax, pursuant to Chapter 39.08 RCW. The form of the Payment Bond and Performance Bond form shall be as published by and available from the American Institute of Architects (AIA) – form A312. The bonds shall remain in force throughout the period required to complete the work, and thereafter for a period of seven hundred thirty (730) days after Final Payment. The bonds must be executed by a duly licensed surety company that is listed in the latest Circular 570 of the United States Treasury Department as being acceptable as surety on federal bonds. No surety's liability on the bonds shall exceed the underwriting limitations for the respective surety specified in Circular 570. The scope of the bonds or the form thereof prescribed in these Contract Documents shall in no way affect or alter the liabilities of Design-Builder to Owner as set forth herein.

10.3 Owner's Insurance.

10.3.1 Builder's Risk. Owner will purchase and maintain Builder's Risk property insurance written on an "all-risk" or "special form" basis with Design-Builder and Specialty Trade Contractors of every tier included as named insureds. Such Builder's Risk insurance shall be in the amount of the Contract Price, plus Washington State Sales Tax, including all Change Orders for the Work on a replacement cost basis excluding earthquake and flood coverage until Substantial Completion. Design-Builder will pay for the first \$10,000 of the policy deductible. The Owner will be responsible for losses to the Work due to Earth Movement and Flood if coverage is not provided under the Builder's Risk policy.

10.3.2 Owner and Design-Builder waive all subrogation rights against each other, any Subcontractors, and separate contractors, if any, and any of their subcontractors, for damages caused by fire or other perils to the extent covered by property insurance applicable to the Work, except such rights as they have to proceeds of such insurance held by Owner as fiduciary. The policies shall provide such waivers of subrogation by endorsement or otherwise. A waiver of subrogation shall be effective to a person or entity even though that person or entity would otherwise have a duty of indemnification, contractual or otherwise, did not pay the insurance premium directly or indirectly, and whether or not the person or entity had an insurable interest in the property damaged.

10.3.3 If Design-Builder believes it has a loss that is covered by Builder's Risk Insurance and it is likely to exceed the policy deductible, Design-Builder shall notify the Owner within 48 hours.

Article 11

Other Provisions

11.1 Apprenticeship Utilization Requirements. Mandatory apprentice utilization of at least fifteen percent (15%) of the total labor hours worked on the contract is required. Apprentices must be registered as apprentices with the State Apprenticeship and Training Council. Design-Builder shall comply with the requirements of the Contract Documents related to apprenticeship. The Design-Builder acknowledges that apprenticeship utilization goals should be met, and that the Owner has determined monetary incentives for meeting the goals, and monetary penalties for not meeting the goals. The Contractor further agrees that, from the compensation otherwise to be paid, the Owner may retain the sum of \$ [REDACTED] as a monetary penalty for not meeting the apprenticeship utilization goals. The Design-Builder further agrees, that in addition to the compensation otherwise to be paid, the Owner will pay by issuance of a Change Order \$ [REDACTED] as an incentive for meeting the apprenticeship utilization goals.

11.2 Business Equity. The Design-Builder will continue to maintain the Procurement and Equity Plan and update monthly, for the purpose of procuring Trade Contractors and Specialty Consultants necessary to perform the Work in accordance with the Contract Documents. Trade Contractors and Specialty Consultants should be engaged early in the Project to ensure a collaborative team environment which will contribute its best efforts for the complete development and delivery of the Project. Owner is committed to providing the maximum practicable opportunity for participation in contracting by Business Equity Enterprises (BEE). Design-Builder shall comply with the Business Equity requirements set forth in the General Conditions.

11.3 Electronic Data. In addition to the requirements set forth in the General Conditions for electronic data, Design-Builder shall comply with the requirements of Attachment A, UW CAD and BIM Standards, in the performance of services under this Contract.

Attachments: The following documents, whether attached hereto or not, are hereby incorporated by reference and made a part of this Agreement, as if set forth herein in full:

- Attachment A: UW CAD and BIM Standards
- Attachment B: Prevailing Wage Rates Information
- Attachment C: Schedule of Values
- Attachment D: Design-Builder's Lump Sum Proposal
- Attachment E: Updated Inclusion Plan
- Attachment F: Procurement and Equity Plan
- Attachment G: Insurance Matrix

UW Project Name
UW Project No. xxxxxx

In executing this Contract, Owner and Design-Builder each individually represents that it has the necessary financial resources to fulfill its obligations under this Contract, and each has the necessary corporate approvals to execute this Contract, and perform the services described herein.

OWNER:

DESIGN-BUILDER:

UNIVERSITY OF WASHINGTON

(Signature)

(Signature)

(Printed Name)

(Printed Name)

(Title)

(Title)

Date: _____

Date: _____