# RFQ/PA

# Attachment 2

# Contract for Preconstruction Services

# PW#

 The Administering Department should take this template and may work with Law as needed to customize for any elements unique to the project.

# CONTRACT FOR PRECONSTRUCTION SERVICES

THIS Preconstruction Services Contract is entered into by THE CITY OF SEATTLE ("City” or “Owner"), and \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ CONTRACTOR ("Contractor" or "GC/CM"), and collectively the "Parties."

The Parties agree as follows:

Pursuant to RCW Ch. 39.10, the Owner has selected the Contractor as its General Contractor/ Construction Manager (GC/CM) for the construction of the **XXXXXXX** Project ("Project"). In furtherance of that purpose, the Owner requires preconstruction services described in this Contract for a period of approximately **XXXXXXX** from execution of this Contract. Prior to any construction activities or when the Maximum Allowable Construction Costs (MACC) has been agreed upon and the Owner determines to proceed, the Parties will enter into a Construction Contract for the construction of the Project in the form that was attached to the Request for Proposals and Proposed Approach.

During this preconstruction phase, GC/CM shall furnish all material, labor, and facilities necessary to perform the Work described in this Preconstruction Contract in a manner acceptable to the Owner. The total of all payments made for work under this Preconstruction Contract shall not exceed the agreed to sum for Preconstruction Services of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ **($\_\_\_\_\_\_\_\_\_\_\_\_\_)**, excluding Washington State Sales Tax.

The amount that may be billed by the GC/CM for Preconstruction Services per task is set forth in Exhibit B (Estimated Project Costs and Labor Hours) to this Preconstruction Contract.

The GC/CM shall not be entitled to compensation for any work or costs associated with the negotiation of the MACC and execution of the GC/CM Contract.

**ARTICLE 1 - DEFINITIONS AND CONTRACT DOCUMENTS**

* 1. The definitions contained in the City of Seattle General Conditions for the **XXXXXXX** Project, apply to this Preconstruction Contract.

**ARTICLE 2 - ENTIRE AGREEMENT**

This Preconstruction Contract, along with the RFPQA, represents the entire agreement between the Parties and supersedes prior negotiations, representation or agreements, either written or oral. The GC/CM recognizes that, while the Owner contemplates the construction of the Project as described in the RFPQA, this Preconstruction Contract does not bind the City to enter into a construction contract or to construct the Project.

**ARTICLE 3 - WORK OF THIS PRECONSTRUCTION CONTRACT**

1. The following exhibits describe the work of this Preconstruction Contract:
	1. Exhibit A (Scope of Work)
	2. Exhibit B (Estimated Project Costs and Labor Hours)
	3. Exhibit C (Preconstruction Labor Rates)
	4. Exhibit D (Sub-consultants Information)
	5. Exhibit E (Estimated Other Direct Expenses)
	6. Exhibit F (Schedule of Deliverables)
	7. Exhibit G (GC/CM’s WMBE Inclusion Plan)
	8. Exhibit H (Allowed and Not Allowed Overhead Costs)
	9. Exhibit I (WMBE Monthly Activity Log)

**ARTICLE 4 - RELATIONSHIP OF THE PARTIES**

* 1. Nothing contained in this Preconstruction Contract shall be construed to create an agency relationship between Owner and Contractor.
	2. Contractor agrees to cooperate with the Owner and the design team, utilizing its skill, best efforts and judgment in furthering the interests of the Owner and this Project; and to provide and supervise an adequate supply of workers and materials to perform the work in the most expeditious and economical manner.
	3. Owner agrees to cooperate with the GC/CM in its performance of this Work, furnishing in a timely way information required by the GC/CM and making payments to the Contractor in accordance with the requirements of this Contract.
	4. The GC/CM recognizes that the Owner has a separate agreement with the design team to design the Project and therefore the GC/CM has no contractual obligation to the design team.

**ARTICLE 5 - PRECONSTRUCTION SERVICES FEE**

* 1. Preconstruction Services Fee. The Parties have agreed that GC/CM shall be paid for the Preconstruction Work on this Project up to the amount shown on page 1 of this Contract. The preconstruction labor rates set forth in Exhibit XXXX are intended to fully compensate the GC/CM for performing the Preconstruction Work including the cost for direct labor, indirect and overhead costs, profit, taxes, insurance, travel and travel related services and for all other necessary incidentals to perform preconstruction services. Compensation for preconstruction services will be based on the services actually performed. The preconstruction services fee will not be negotiated.
	2. Billing and Payment. The GC/CM shall invoice the Owner on a monthly basis for all work and all chargeable costs performed or incurred in the prior month. Each invoice shall include a detailed Progress Report for the services provided during the billing period and is to be itemized by subtask per the preconstruction service summary of work. Additionally, each invoice shall consist of consisting of a the month’s activities, identification of high risk issues (i.e. constructability, budget impacts, and schedule impacts), current project schedule, six-week look ahead and current budget (see Exhibit A Subtask XXX). All expenses associated with performing the Work of this Contract shall be presumed to be covered in the subtasks of the Preconstruction Summary of Work attached to this Contract and therefore covered in the cost stated on page 1 of this Contract. Additional expenses the GCCM may feel are not covered in the Preconstruction Summary of Work must be negotiated and approved by the Owner prior to incurring the expense.

Monthly progress payment approval will be contingent upon receipt of WMBE Activity Log report (Attachment X) and WMBE payment online report (https://wald1.seattle.gov/fas/cid/Login.aspx)

**Invoices shall be submitted to**:

Department Contact

**Invoices under this Preconstruction Contract shall clearly display the following information (sub-consultants' invoices shall also include this information):**

* **INVOICE DATE and NUMBER**
* The Project Manager: XXXXX (Please do not put PM’s name in the address portion of the invoice)
* Department Contract No. XXXXXXX
* Project title: XXXXXXX Project Preconstruction Contract
* Period covered by the invoice
* Task # and title
* Employee's name and classification
* Employee's Preconstruction Labor Rate and # of hours worked
* Total labor costs per task
* Itemization of direct, non-salary costs (per task, if so allocated)
* Subcontractor payments - total amount paid to each that period (attach their invoices for detail)
* Cumulative costs per task and for the total project

Invoices will be checked by the City and payment to the GC/CM will be made within 30 days after accurate billing and back-up documentation are received. No payment shall be made for work performed prior to authorization to begin work.

The GC/CM agrees that the payment provided in this Section shall fully and adequately compensate the GC/CM and all subcontractors for all profits, costs, expenses, losses, liabilities, damage, taxes, and charges of any kind whatsoever (whether foreseen or unforeseen) attributable to the termination of this Agreement.

NOTE: **Time Limit on Old or Lost Invoices**: It is understood that the City shall not be obligated to pay the GGCM for work performed if the billing for such work is not received within one (1) year of the performance of such work, or ninety (90) days after the date of the Letter of Completion, whichever is sooner. Additionally, the City shall not be obligated to pay for lost or otherwise unpaid invoices if the GC/CM has not notified the City in writing of such nonpayment within one (1) year from the date of such lost or unpaid invoices, or ninety (90) days after the date of the Letter of Completion, whichever is sooner.

**ARTICLE 6 - INSURANCE**

* 1. INSURANCE

Prior to commencement of the work under the terms of the Preconstruction Contract, at its own expense, GC/CM shall obtain all the insurance required by this Preconstruction Contract and provide evidence satisfactory to the City that such insurance has been procured.

6.1.A MINIMUM INSURANCE COVERAGES, LIMITS AND OTHER REQUIREMENTS

The insurance shall provide the minimum coverages and limits of liability and meet all other requirements as set forth herein. Providing evidence of coverage for these stated minimum limits of liability shall not relieve the Contractor, any subcontractor of any tier or any of their respective insurers from liability for claims in excess of such stated minimum limits of liability should higher limits of liability be placed. If Work is subcontracted, applicable minimum coverages and limits of liability may be evidenced by any subcontractor provided that such insurance fully meets the applicable requirements set forth herein.

**6.1.B** **Commercial General Liability (CGL) insurance**

CGL insurance shall include coverage for:

1. Premises/Operations
2. Products/Completed Operations
3. Personal/Advertising Injury
4. Contractual
5. Independent Contractors
6. Stop Gap (unless insured as Employers Liability under Part B. of a Workers Compensation Insurance Policy)
7. Per project aggregate per ISO CG 25 03 (Aggregate Limits of Insurance per Project) or Equivalent
8. Blasting (if explosives are used in the performance of the Work)

Such insurance must provide a minimum limit of liability of $1,000,000 each Occurrence Combined Single Limit Bodily Injury and Property Damage (CSL) except $1,000,000 each Offense Personal/Advertising Injury and $1,000,000 each Accident/ Disease - Policy Limit/ Disease - each Employee Stop Gap or Employers Liability.

**6.1.C.** **Automobile Liability Insurance**

Automobile Liability for owned, non-owned, hired, and leased vehicles, as applicable, with a minimum limit of liability of $1,000,000 CSL. If pollutants are to be transported, MCS 90 and CA 99 48 endorsements are required on the Automobile Liability insurance policy unless in-transit pollution risk is covered under a Pollution Liability insurance policy.

**6.1.D State of Washington Statutory Workers’ Compensation Insurance**

The Contractor shall comply with Workers’ Compensation coverage as required by Title 51 RCW (Industrial Insurance).

**6.1.E Contractor’s Professional Liability**

The Contractor shall provide evidence of Professional Liability insurance covering professional errors and omissions for construction management, value engineering, or any other non-construction professional services. Such insurance must provide a minimum limit of liability of $\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ each claim and may be evidenced as an extension of a CGL policy or by a separate Professional Liability policy. If insurance is on claims made form, its retroactive date, and that of all subsequent renewals, shall be no later than the Notice to Proceed Date.

**6.1.F General Requirements**

**(DO NOT APPLY TO STATE OF WASHINGTON STATUTORY WORKERS’ COMPENSATION INSURANCE)**

1. The Contractor shall (1) not begin Work until evidence of insurance as required in section 1-07.18(5) has been delivered to and approved by the Owner, and (2) keep required insurance in force at all times during the term of the Contract. The term “insurance” herein shall include but not be limited to self-insurance, alternative risk transfer techniques, capital market solutions or any other form of risk financing.

2. Each insurer must either be (1) authorized to do business in the state of Washington and maintain A.M. Best’s ratings of A-: VII or higher, or (2) procured as surplus lines under the provisions of chapter 48.15 RCW (“Unauthorized Insurers”), except as may otherwise be approved by the Owner.

3. “The City of Seattle” shall be included as an additional insured for primary and non-contributory basis as respects insurance coverages specified in sections 6.1.A (CGL insurance) and 6.1.B (Automobile Liability insurance). As respects CGL insurance, and Contractor’s Pollution Liability Insurance (if required), such additional insured status shall (1) be evidenced by an ISO endorsement form CG 20 10 or equivalent designated or blanket additional insured endorsement or policy language, (2) be primary and non-contributory as respects the Owner’s insurance, and (3) contain a “separation of insureds” provision. ISO endorsement form CG 20 12 or equivalent endorsement or blanket additional insured language limiting additional insured status to governmental permitting shall not satisfy the requirements of this paragraph. As respects section 6.1.B (Automobile Liability insurance), such additional insured status shall (1) be evidenced by ISO endorsement form CA 20 48 or equivalent designated or blanket additional insured endorsement or policy language, (2) be primary and non-contributory as respects the Owner’s insurance, and (3) contain a “separation of insureds” provision.

4. Written notice of cancellation must be actually delivered or mailed to the Owner not less than thirty (30) days prior to the effective date of any cancellation, except for cancellation for nonpayment of premium, which notice shall be not less than ten (10) days prior to such date, unless a longer period of written notice is required under the provisions of Revised Code of Washington (RCW) 48.18.290 (“Cancellation by insurer.”).

Notice under this paragraph shall be issued to:

The City of Seattle

FAS Risk Management Division

P.O. Box 94669

Seattle, WA 98124-4669

If sent by facsimile transmission, fax to (206) 470-1270; if emailed, send as a PDF or XLS format attachment to RiskManagement@Seattle.Gov.

1. Failure on the part of the Contractor to maintain insurance as required shall constitute a material breach of contract, upon which Owner, after giving five (5) business days notice to the Contractor to correct, may immediately terminate the contract. At the sole discretion of the Owner, it may also procure or renew such insurance and pay any and all premiums in connection therewith, with any sums so expended to be repaid to the Owner on demand, or at the sole discretion of the Owner, it may offset sums expended against funds due the Contractor.
2. Any self-insured retention (S.I.R.) in excess of $25,000 that is not “fronted” by an insurer must be disclosed and is subject to the Owner’s approval. Upon request by the Owner, the Contractor shall (1) furnish financial information that the Owner may reasonably require to assess the Contractor’s risk bearing capacity, and (2) provide a written statement that the Contractor will defend and indemnify the Owner against any claim within the Contractor’s S.I.R. at least to the same extent that coverage would be afforded to the Owner under the relevant insurance policy(ies) meeting the requirements stated herein. The cost of any payments for defense and indemnity falling within the S.I.R. shall be the responsibility of the Contractor.
3. The Contractor and/or any subcontractor of any tier shall comply with all of a railroad's risk management requirements (including purchasing Railroad Protective Liability Insurance) before performing construction services work adjacent to or upon a railway's right of way and/or property.
4. All costs for insurance shall be incidental to and included in the unit or lump sum prices of the contract and no additional payment will be made.

6.1.G. Subcontractor Insurance

Contractor shall contractually require that each subcontractor of every tier maintain at a minimum the insurance coverages specified in sections 6.1.A (CGL insurance) and 6.1.B (Automobile Liability insurance) and include the City of Seattle as an additional insured for primary and non-contributory limits of liability.

6.1.H NO LIMITATION OF LIABILITY; ADDITIONAL INSURED

The limits of liability specified herein are minimum limits only. Such minimum limits of liability requirements shall not be construed to limit the liability of the Contractor, that of any subcontractor of any tier or of any of their respective insurers. Any provision in any Contractor or subcontractor insurance policy that limits available limits of liability to those specified in a written agreement or contract shall not apply and all insurance policies, with the exception of Professional Liability and Workers Compensation, shall include the City of Seattle as an additional insured for primary and non-contributory limits of liability for the full valid and collectible limits of liability maintained by the Contractor or subcontractor, whether such limits are primary, excess, contingent or otherwise. This provision shall apply regardless of whether limits maintained by the Contractor are greater than those required by this Contract, and regardless of whether the certification of insurance provided by a subcontractor of any tier specifies lower minimum limits than those specified for or maintained by the Contractor.

6.1.I. EVIDENCE OF INSURANCE (DOES NOT APPLY TO STATE OF WASHINGTON STATUTORY WORKERS’ COMPENSATION)

1. The Contractor shall deliver to the Owner certification of insurance meeting the requirements set forth herein when the Contractor delivers the signed Contract for the work. The certification of insurance must include the following:

A. An ACORD certificate or equivalent form fully disclosing all coverages and limits of liability maintained.

B. A copy of the additional insured endorsement or blanket additional insured language to the Commercial General Liability and (if required) Pollution Liability insurance documenting that the City of Seattle is an additional insured for primary and non-contributory limits of liability and (if required) Products and Completed Operations Additional Insured; a statement of additional insured status on an ACORD or other form of certificate of insurance will not satisfy this requirement.

C. A copy of each policy’s declarations page and schedule of forms and endorsements.

D. Any other policy language or endorsements that documents compliance with the requirements herein, including (if required) CA 99 48 and MCS-90 endorsements.

2. Should any insurance policy neither be issued nor delivered to the named insured Contractor at the time it delivers the signed Contract for the work, the Contractor shall deliver and maintain on file with the City binders of insurance evidencing compliance with the requirements herein. As soon as practicable after delivery of the policy(ies), the Contractor shall deliver the insurance certification specified in subparagraphs B., C. and D. above.

3. At any time upon the Owner’s request, the Contractor shall forward to the Owner a true and certified copy of any insurance policy(s).

4. Certification of insurance shall be issued to: The City of Seattle

 FAS Purchasing and Contracting Services Division

 700 Fifth Avenue, Suite 4112

 P.O. Box 94687

 Seattle, WA 98124-4687

If sent by facsimile transmission, fax to (206) 684-4511; if emailed, send as a PDF or XLS format attachment to ContractingServices@Seattle.Gov.

**6.1.J WORKER’S BENEFITS**

The Contractor shall make all payments required for unemployment compensation under Title 50 RCW and for industrial insurance and medical aid required under Title 51 RCW. If any payment required by Title 50 or Title 51 is not made when due, the Owner may retain such payments from any money due the Contractor and pay the same into the appropriate fund.

For work on or adjacent to water, the Contractor shall make the determination as to whether workers are to be covered under the Longshoremen's and Harbor Worker's Compensation Act administered by the U.S. Department of Labor, or the State Industrial Insurance coverage administered by the Washington State Department of Labor and Industries, or both coverages.

The Contractor shall include in the Bid, all costs for payment of unemployment compensation and for providing either or both of the insurance coverages. The Contractor will not be entitled to any additional payment for: (1) failure to include such costs, or (2) determinations made by the U.S. Department of Labor or the Washington State Department of Labor and Industries regarding the insurance coverage.

The Public Works Contract Division of the Department of Labor and Industries will provide the Contractor with applicable industrial insurance and medical aid classification and premium rates. The "Request for Release" form of the Department of Labor and Industries is also for the purpose of obtaining a release with respect to the payments of industrial insurance and medical aid premiums.

Insurance requirements for the construction phase of the project are covered in the General Conditions.

**ARTICLE 7 - WOMEN AND MINORITY BUSINESS (WMBE)**

The GC/CM shall be responsible for performing the commitments of the WMBE Inclusion Plan, as submitted in the original proposal and negotiated with the City (Exhibit X) and as specified in the General Conditions (Section 5.06.C, Social Equity, Women and Minority Business). Even thought the work will begin in the preconstruction phase, all costs associated with carrying out the Social Equity Program or the WMBE Inclusion Plan will be part of the General Conditions Work.

The GC/CM shall assist the Owner with information and records necessary to determine inclusion in accordance with this Agreement.

**ARTICLE 8 - GENERAL PROVISIONS**

* 1. Compliance with Law
		1. General Requirement: The GC/CM shall comply with all applicable laws of the United States, the State of Washington, the Charter, Municipal Code and ordinances of The City of Seattle, and all rules, regulations, orders, and directives of their administrative agencies applicable to this Project.
		2. Licenses and Similar Authorizations: The GC/CM, at no expense to the City, shall secure and maintain in full force and effect during the term of this Preconstruction Contract all required licenses, permits, and similar legal authorizations, and comply with all related requirements. The GC/CM shall have a current Seattle Business License and must be current on all Business and Occupancy Taxes.
		3. Taxes: The GC/CM shall pay when due, all taxes, levies, and assessments arising from its activities under this Preconstruction Contract.
		4. Use of Recycled Content Paper: The GC/CM shall, whenever practicable, use recycled content paper on all documents submitted to the City.
		5. Americans with Disabilities Act: The GC/CM shall comply with all applicable provisions of the Americans with Disabilities Act of 1990 (ADA) and the 2010 ADA Standards in performing its obligations under this Preconstruction Contract and recognizes that the City of Seattle is covered under Title II of said Act. The GC/CM, in addition to all other duties arising under the Preconstruction Contract, shall work with the City’s design team and with all Subcontractors during the construction of this Project to assure compliance with the ADA. Failure to comply with the provisions of the ADA shall be a material breach of this Preconstruction Contract and is grounds for immediate termination.
	2. Governing Law. The laws of the state of Washington shall govern this Preconstruction Contract and the rights of the Parties herein. Venue shall be in King County, Washington at Seattle.
	3. Assignment. The Contractor shall not assign the Work of this Preconstruction Contract, without the written consent of the Owner, except that GC/CM may assign its interests for security purposes, to a bank or lending institution authorized to do business in the state of Washington upon obtaining the written consent of the City, which consent shall not be unreasonably withheld. If the Contractor attempts to make such an assignment without such consent, the Contractor shall nevertheless remain legally responsible for all obligations set forth in the Preconstruction Contract.
	4. Words which have well-known technical or construction industry meanings are used in this Preconstruction Contract in accordance with such recognized meanings unless otherwise stated. Reference to standard specifications, manuals, or codes of any technical society, organization, or association, or to the code of any governmental authority, whether such reference be specific or by implication, shall be to the latest standard specification, manual, or code in effect on the date for submission of bids, except as may be otherwise specifically stated.
	5. Pursuant to RCW 39.06, GC/CM shall be registered or licensed as required by the laws of the State of Washington, including but not limited to RCW 18.27.
	6. Records Retention. The wage, payroll, and cost records of GC/CM, and its Subcontractors, and all records subject to audit in accordance with Section 8.7, shall be retained for a period of not less than 6 years after the date of completion of the Work in this Preconstruction Contract.
	7. Audit. The GC/CM shall permit the City and/or any other governmental agency entitled to audit the records of the City or its contractor (hereinafter referred to as "Agency") (including up to six years after the final payment or release of withheld amounts has been made under this Preconstruction Contract)**,** to inspect and audit at any and all reasonable times in King County, Washington, or at such other reasonable location as the City Auditor and/or Agency selects, all pertinent books and records of the GC/CM and any subcontractors or other person or entity that has performed work in connection with or related to the GC/CM's services under this Preconstruction Contract to verify, among other things, that the compensation or other consideration provided to the GC/CM has been appropriate, and that the contracted-for services were provided in a timely manner; and shall supply the City with, or shall permit the City and/or Agency to make, a copy of any books and records and any portion thereof, upon the City Auditor's, Executive Services Director, or the Agency's request. The GC/CM shall ensure that such inspection, audit and copying right of the City and Agency is a condition of any subcontract, agreement or other arrangement under which any other person or entity is permitted to perform work in connection with or related to the GC/CM's services under this Preconstruction Contract.
	8. Subcontracting. Neither Party shall subcontract any of its obligations under this Preconstruction Contract, without the other Party's written consent. The GC/CM shall be responsible for ensuring that all subcontractors comply with the obligations and requirements of this Preconstruction Contract.
	9. Amendments. No modification or amendment of this Preconstruction Contract shall be effective unless in writing and signed by authorized representatives of the Parties.
	10. Remedies Cumulative. Rights under this Preconstruction Contract are cumulative; the failure to exercise on any occasion any right shall not operate to forfeit such right on another occasion. The use of one remedy shall not be taken to exclude or waive the right to use another.
	11. Captions. The titles of sections are for convenience only and do not define or limit the contents.
	12. Severability. A judicial determination that any term, provision, condition, or other portion of this Preconstruction Contract, or its application, is inoperative, invalid, or unenforceable shall not affect the remaining terms, provisions, conditions, or other portions of this Preconstruction Contract, nor shall such a determination affect the application of such term, provision, condition, or portion to persons or in circumstances other than those directly involved in the determination in which it is held to be inoperative, invalid, or unenforceable, and as to such other persons or in such other circumstances it shall continue in full force and effect.
	13. INDEMNIFICATION
		1. The Contractor shall defend, indemnify and save harmless the Owner and its officers, employees and agents from every claim, risk, loss, damage, demand, suit, judgment and attorney's fee, and any other kind of expense arising out of or in any manner connected with the Work performed under this Preconstruction Contract. The obligation to indemnify shall be valid and enforceable only to the extent of the Contractor's negligence if the claim, suit, or action for injuries, death, or damage is caused by or results from the concurrent negligence of:
	14. The Contractor or its officers, agents, employees, or Subcontractors, and
	15. The Owner or its officers, agents or employees,

To the extent necessary to fulfill its obligations under this subsection, the Contractor waives, as to the Owner only, its immunity under Title 51 RCW. Contractor and Owner agree that this waiver was mutually negotiated by the parties.

* + 1. The Contractor further agrees to indemnify, defend and hold Owner and its agents and employees harmless from the use of any design, process, or equipment which constitutes an infringement of any United States patent presently issued, or violates any other proprietary interest, including copyright, trademark, and trade secret, except as stated in Subsection 5.04, where a particular design, process or equipment is specified by the Contract Documents,
		2. The obligations under this Section shall survive Completion or termination of this Preconstruction Contract.
	1. DISPUTES

Any dispute or misunderstanding that may arise under this Preconstruction Contract concerning the Contractor's performance shall first be resolved through negotiations, if possible, between the Contractor's Project Manager and the City's Project Manager, or if necessary shall be referred to the Director of XXX and the Contractor's senior executive(s). If such officials do not agree upon a decision within a reasonable period of time, the parties may pursue other legal means to resolve such disputes, including but not limited to alternate dispute resolution processes.

* 1. MANAGEMENT OF CONTRACT

This Preconstruction Contract will be signed on behalf of the City of Seattle acting through its Department of Finance and Administrative Services, City Purchasing and Contracting Services (PCSD). The actual work of this Preconstruction Contract will be managed and directed by XXXX(Department).

**ARTICLE 9 - TERMINATION**

* 1. For Cause: Either Party may terminate this Contract in the event the other fails to perform its obligations as described in this Contract, and such failure has not been corrected to the reasonable satisfaction of the other in a timely manner after notice of breach has been provided to such other Party.
	2. For Reasons Beyond Control of Parties: Either Party may terminate this Contract without recourse by the other where performance is rendered impossible or impracticable for reasons beyond such Party's reasonable control such as but not limited to acts of nature; war or warlike operations; civil commotion; riot; labor dispute including strike, walkout, or lockout; sabotage; or superior governmental regulation or control.
	3. Termination for Convenience. The City may terminate this Contract for any reason, including, but not limited to, for its convenience, at any time by giving notice. If this Agreement is terminated by the City pursuant to this subsection, the GC/CM will be paid an amount equal to the GC/CM’s fees and expenses incurred to the date of termination less any amounts previously paid to the GC/CM pursuant to this Contract; provided, however, in no event shall the amount paid exceed the not to exceedprice of this Contract multiplied by the percentage of the total services actually performed.
	4. The GC/CM agrees that the payment provided in this Article shall fully and adequately compensate the GC/CM and all subcontractors for all profits, costs, expenses, losses, liabilities, damage, taxes, and charges of any kind whatsoever (whether foreseen or unforeseen) attributable to the termination of this Contract.
	5. Notice: Notice of termination shall be given by the Party terminating this Contract to the other not less than five (5) working days prior to the effective date of termination.
	6. Upon termination for any reason, the Contractor shall provide the City with the most current documents, contract documents, writings and other products it has produced to the date of termination, along with copies of all project-related correspondence and similar items. The City shall have the same rights to use these materials as if termination had not occurred; provided.

IN WITNESS WHEREOF, the Owner has caused these presents to be signed by the designee of the Department of Finance and Administrative Services Director, and the GC/CM has hereunto affirmed his or her signature.

THE CITY OF SEATTLE

Department of Finance and Administrative Services

City Purchasing and Contracting Services

By \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Date \_\_\_\_\_\_\_\_\_\_\_\_\_\_

 Nancy Locke, Director

INSERT CONSTRUCTION COMPANY NAME

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

 \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (print name and title)