

Attachment A (A)

Progressive Design- Build Agreement

Document No. 544

First Edition, 2019

© Design-Build Institute of America
Washington, D.C.





Progressive Design-Build Agreement

This document has important legal consequences. Consultation with an attorney is recommended with respect to its completion or modification.

This **AGREEMENT** is made as of the TBD day of _____ in the year of _____, by and between the following parties, for services in connection with the Project identified below:

OWNER:

(Name and address)

Confederated Tribes of the Umatilla Indian Reservation (CTUIR)
46411 Timine Way
Pendleton, OR 97801

DESIGN-BUILDER:

TBD after review of responses to the RFP

(Name and address)

PROJECT:

(Include Project name and location as it will appear in the Contract Documents)

*CTUIR design build 33,000 sf warehouse
Coyote Business Park South
Lot 2*

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

Article 1

General

- 1.1 Duty to Cooperate. Design-Builder commits at all times to cooperate fully with Owner and proceed on the basis of trust and good faith to permit Owner to realize the benefits afforded under this Agreement.
- 1.2 Definitions. Terms, words and phrases used in this Agreement shall have the meanings given them in DBIA Document No. 535, *Standard Form of General Conditions of Contract Between Owner and Design-Builder* (2010 Edition), as modified ("General Conditions of Contract").
- 1.3 Design Services. Design-Builder shall, consistent with applicable state licensing laws, provide design services, including architectural, engineering, and other design professional services required by this Agreement. Such design services shall be provided through qualified, licensed design professionals who are either (i) employed by Design-Builder, or (ii) procured by Design-Builder from independent sources. Owner is an intended third-party beneficiary of the contracts for such services.

Article 2

Design-Builder's Services and Responsibilities

- 2.1 General Services.
 - 2.1.1 Owner shall provide Design-Builder with Owner's Project Criteria describing Owner's program requirements and objectives for the Project as set forth in the Request for Proposal. Owner's Project Criteria shall include Owner's use, space, price, time, site, performance, and requirements. Owner's Project Criteria may include conceptual documents, design specifications, design performance specifications, and other technical materials and requirements prepared by or for Owner.
 - 2.1.2 If Owner's Project Criteria have not been developed prior to the execution of this Agreement, Design-Builder will assist Owner in developing Owner's Project Criteria, with such service deemed to be a basic service for which additional compensation shall not be paid by Owner to Design-Builder. If Owner has developed Owner's Project Criteria prior to executing this Agreement, Design-Builder shall review and prepare a written evaluation of such criteria, including recommendations to Owner for different and innovative approaches to the design and construction of the Project. The parties shall meet to discuss Design-Builder's written evaluation of Owner's Project Criteria and agree upon what revisions, if any, should be made to such criteria.
- 2.2 Phased Services.
 - 2.2.1 Phase 1 Services. Design-Builder shall perform the services of Mater Planning, design, pricing, and other services for the Project based on Owner's Project Criteria, as may be revised in accordance with Section 2.1 hereof, as set forth in Attachment F, Supplemental General Conditions. Design-Builder shall perform such services to the level of completion required for Design-Builder and Owner to establish the Contract Price for Phase 2, as set forth in Section 2.3 below. The Contract Price for Phase 2 shall be developed during Phase 1 on an "open book" basis and in accordance with this Agreement including Section 15 and the attachments. Design-Builder's Compensation for Phase 1 Services is set forth in Section 7.0 herein. The level of completion required for Phase 1 Services is defined in Request for Proposal, Scope of Services (either as a percentage of design completion or by defined deliverables).

2.2.2 Phase 2 Services. Design-Builder's Phase 2 services shall consist of the completion of design services for the Project, the procurement of all materials and equipment for the Project, the performance of construction services for the Project, the start-up, testing, and commissioning of the Project, and the provision of warranty services, all as further described in the Contract Price Amendment. Upon receipt of Design-Builder's proposed Contract Price for Phase 2, Owner may proceed as set forth in Article 2.3.

2.3 Proposal. Upon completion of the Phase 1 Services and any other Basis of Design Documents upon which the parties may agree, Design-Builder shall submit a proposal to Owner (the "Proposal") for the completion of the design and construction for the Project for the Contract Price, which shall be based on Design-Builder's Fee and Cost of the Work with a Guaranteed Maximum Price (GMP).

2.3.1 The Proposal, which shall be developed in accordance with Attachment C, shall include the following unless the parties mutually agree otherwise:

2.3.1.1 The Contract Price with GMP shall be the sum of:

- i. Design-Builder's Fee as defined in Section 7.4.1 hereof;
- ii. The estimated Cost of the Work as defined in Section 7.5 hereof, inclusive of any Design-Builder's Contingency as defined in Section 7.6.2 hereof; and
- iii. If applicable, any prices established under Section 7.1.3 hereof;

2.3.1.2 The Basis of Design Documents, which may include, by way of example, Owner's Project Criteria, which are set forth in detail and are attached to the Proposal;

2.3.1.3 A list of the assumptions and clarifications made by Design-Builder in the preparation of the Proposal, which list is intended to supplement the information contained in the drawings and specifications and is specifically included as part of the Basis of Design Documents;

2.3.1.4 The Scheduled Substantial Completion Date upon which the Proposal is based, to the extent said date has not already been established under Section 6.2.1 hereof, and a schedule upon which the Scheduled Substantial Completion Date is based and a Project Schedule for the Work;

2.3.1.5 If applicable, a list of Allowance Items, Allowance Values, and a statement of their basis;

2.3.1.6 If applicable, a schedule of alternate prices;

2.3.1.7 If applicable, a schedule of unit prices;

2.3.1.8 If applicable, a statement of Additional Services which may be performed but which are not included in the Proposal, and which, if performed, shall be the basis for an increase in the Contract Price and/or Contract Time(s);

2.3.1.9 If applicable, a Savings provision;

2.3.1.10 If applicable, Performance Incentives;

2.3.1.11 The time limit for acceptance of the Proposal; and

2.3.1.12 An Owner's permit list, a list detailing the permits and governmental approvals that Owner will bear responsibility to obtain.

2.3.2 Review and Adjustment to Proposal.

2.3.2.1 After submission of the Proposal, Design-Builder and Owner shall meet to discuss and review the Proposal. If Owner has any comments regarding the Proposal or finds any inconsistencies or inaccuracies in the information presented, it shall promptly give written notice to Design-Builder of such comments or findings. If appropriate, Design-Builder shall, upon receipt of Owner's notice, make appropriate adjustments to the Proposal.

2.3.2.3 Acceptance of Proposal. If Owner accepts the Proposal, as may be amended by Design-Builder, the Contract Price and its basis shall be set forth in an amendment to this Agreement, when mutually agreed between the parties (Contract Price Amendment). Once the parties have agreed upon the Contract Price and Owner has issued a Notice to Proceed with Phase 2, Design-Builder shall perform the Phase 2 Services, all as further described in the Contract Price Amendment, as it may be revised.

2.3.2.4 Failure to Accept the Proposal. If Owner rejects the Proposal or fails to notify Design-Builder in writing on or before the date specified in the Proposal that it accepts the Proposal, the Proposal shall be deemed withdrawn and of no effect. In such event, Owner and Design-Builder shall meet and confer as to how the Project will proceed, with Owner having the following options:

i. Owner may suggest modifications to the Proposal, whereupon, if such modifications are accepted in writing by Design-Builder, the Proposal shall be deemed accepted and the parties shall proceed in accordance with Section 2.3.2.3 above;

ii. Owner may authorize Design-Builder to continue to proceed with particular work in advance of execution of the Contract Price Amendment ("Early Work") as allowed under applicable law on the basis of reimbursement as provided in Section 7.1.2 hereof without a Contract Price, in which case all references in this Agreement to the Contract Price shall not be applicable; or

iii. Owner may terminate this Agreement for convenience in accordance with Article 9 hereof; provided, however, in this event, Design-Builder shall not be entitled to the payment provided for in Section 9.2 hereof.

If Owner fails to exercise any of the above options, Design-Builder shall not proceed with Work and shall not be entitled to the payment provided for in Section 9.2 hereof. If Owner fails to exercise any of the options under Section 2.3.2.4 within thirty (30) days of receipt of Design-Builder's notice, then this Agreement shall be deemed completed. If Owner terminates the relationship with Design-Builder under Section 2.3.2.4(iii), or if this Agreement is deemed completed under this paragraph, then Design-Builder shall have no further liability or obligations to Owner under this Agreement, other than for breach of Contract or acts or omissions occurring prior to such termination.

Article 3

Contract Documents

3.1 The Contract Documents are comprised of the following:

3.1.1 All written modifications, amendments, minor changes, and Change Orders to this Agreement issued in accordance with DBIA Document No. 535, *Standard Form of General Conditions of Contract Agreement Between Owner and Design-Builder*, as modified (2010 Edition) ("General Conditions of Contract");

3.1.2 The Contract Price Amendment referenced in Section 2.3.2.3 herein or the Proposal accepted by Owner in accordance with Section 2.3 herein.

3.1.3 This Agreement, including all attachments but excluding, if applicable, the Contract Price Amendment;

3.1.4 The General Conditions and Supplemental General Conditions of the Contract;

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

Article 4

Interpretation and Intent

4.1 Design-Builder and Owner, at the time of acceptance of the Proposal by Owner in accordance with Section 2.3 hereof, shall carefully review all the Contract Documents, including the various documents comprising the Basis of Design Documents for any conflicts or ambiguities. Design-Builder will discuss with Owner and resolve any identified conflicts or ambiguities prior to execution of the Agreement, or if applicable, prior to Owner's acceptance of the Proposal.

4.2 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 Owner's acceptance of the Proposal, Design-Builder shall attempt to resolve with Owner any ambiguity, conflict, or inconsistency informally, recognizing: (i) that the Contract Documents shall take precedence in the order in which they are listed in Section 3.1 hereof; and (ii) ambiguities, conflicts or inconsistencies shall be resolved in the manner that provides better or more complete services, materials, or Work for the Owner. *(Note, the parties are strongly encouraged to establish in the Contract Price Amendment or Proposal (as applicable) the priority of the various documents comprising such Attachment or proposal.)*

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

4.4 If Owner's Project Criteria contain design specifications: (a) Design-Builder is entitled to reasonably rely on the accuracy of the information represented in the design specifications and their compatibility with other information set forth in Owner's Project Criteria, including any design performance specifications; and (b) Design-Builder shall be entitled to an adjustment in its Contract Price and/or Contract Time(s) to the extent Design-Builder's cost and/or time of performance have been adversely impacted by such inaccurate design specification.

4.5 The Contract Documents form the entire agreement between Owner and Design-Builder and by incorporation herein are as fully binding on the parties as if repeated herein. No oral representations or other agreements have been made by the parties except as specifically stated in the Contract Documents.

Article 5

Ownership of Work Product

5.1 Work Product. All drawings, specifications and other documents and electronic data, including such documents identified in the General Conditions of Contract, furnished by Design-Builder to Owner under this Agreement ("Work Product") are deemed to be work made for hire for Owner and Owner shall have and retain the ownership and property interests therein, including but not limited to any intellectual

property rights, copyrights, and/or patents, subject to the provisions set forth in Sections 5.2 through 5.5 below.

5.2 Owner's right to use the Work Product in connection with Owner's occupancy of the Project, is conditioned on Owner's express understanding that its alteration of the Work Product without the involvement of Design-Builder is at Owner's sole risk and without liability or legal exposure to Design-Builder or anyone working by or through Design-Builder, including Design Consultants of any tier (collectively the "Released Parties"), provided that this clause does not exclude liability for professional negligence or breach of contract.

5.3 Owner's Right upon Owner's Termination for Convenience or Design-Builder's Election to Terminate. If Owner terminates this Agreement for its convenience as set forth in Article 9 hereof, or if Design-Builder elects to terminate this Agreement in accordance with Section 11.4 of the General Conditions of Contract, Owner shall retain the right to use the Work Product to complete the Project and subsequently occupy the Project, and Owner shall thereafter have the same rights as set forth in Section 5.2 above.

5.4 Owner's Right upon Design-Builder's Default. If this Agreement is terminated due to Design-Builder's default pursuant to Section 11.2 of the General Conditions of Contract, then Owner shall thereafter have the same rights and obligations as set forth in Section 5.2 above. Notwithstanding the preceding sentence, if it is ultimately determined that Design-Builder was not in default, Owner shall be deemed to have terminated the Agreement for convenience.

5.5 Owner's Release for Use of Work Product. Owner recognizes that in the event of an early termination of the Work, for convenience, Design-Builder will not have the opportunity to finish or to finalize its Work Product. Therefore, if Owner uses the Work Product, in whole or in part, Owner shall release the Released Parties from and against any and all claims, damages, liabilities, losses, and expenses, including attorneys' fees, ("Claims"), arising out of or resulting from the use or alteration of the Work Product, to the extent Design-Builder establishes its finishing or finalization of the Work Product would have avoided such Claims.

Article 6

Contract Time

6.1 Date of Commencement. The Phase 1 Services shall commence within five (5) business days of Design-Builder's receipt of Owner's Notice to Proceed unless the parties mutually agree otherwise in writing. The Work shall commence within five (5) business days of Design-Builder's receipt of Owner's Notice to Proceed for Phase 2 Services ("Date of Commencement") if the Proposal is accepted and the Contract Price Amendment is amended to this Agreement unless the parties mutually agree otherwise in writing.

6.2 Substantial Completion and Final Completion.

6.2.1 Substantial Completion of the entire Work shall be achieved no later than:

[At the parties' option, the following supplemental language may be inserted at the end of Section 6.2.1.]

☒ The parties agree that the definition for Substantial Completion set forth in Section 1.2.18 of the General Conditions of Contract is hereby modified to read as follows:

"Substantial Completion is the date on which the Work is (i) sufficiently complete in accordance with the Contract Documents so that Owner can occupy and use the Project or a portion thereof for its intended purposes, (ii) the date of issuance of a Temporary Certificate of Occupancy issued

by the local building official, if a Temporary Certificate of Occupancy is applicable to the Project, and (iii) the date of the substantial completion as identified in the Certificate of Substantial Completion from the Architect. The Work will be considered not Substantially Complete if the Owner determines that appropriate cleaning has not occurred. The only remaining Work after Substantial Completion shall be minor in nature, so that the Owner could occupy the Project on that date and the completion of the Work by the Design-Builder would not interfere with or hamper the Owner's or its occupants' normal operations. No building or facility will be considered to have reached Substantial Completion unless all utilities and systems (mechanical, electrical, HVAC, etc.) are connected, commissioned, and operating as required for normal use, the Design-Builder has completed all of the building systems training procedures with the Owner and the building or facility is accessible by normal vehicular and pedestrian traffic routes. The fact that the Owner may occupy the Work or designated portion thereof alone does not indicate that the Work is Substantially Complete or is acceptable in whole or in part, nor does such occupation toll or change liquidated damages owed to the Owner and the Owner can perform "move-in" activities without interruption or risk of damages to people or property."

6.2.2 Interim milestones and/or Substantial Completion of identified portions of the Work shall be achieved as follows:

6.2.3 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 of Contract.

6.2.4 All of the dates set forth in this Article 6 ("Contract Time(s)") shall be subject to adjustment in accordance with the General Conditions of Contract.

6.3 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.

6.4 Liquidated Damages. The Design-Builder acknowledges that the Owner will incur significant damages if the Project is not completed within the Contract Time, including without limitation, damages in the form of inability to use the Project and all related facilities ("Loss of Use"); which are in addition to other damages such as delay costs for completion of portions of the Project or related projects to be constructed by the Owner or the Owner's separate contractors; or costs of extended services of the Owner's project management staff, outside construction management firms, Architect, any separate contractors and consultants, and others performing work or services related to the Project. In consideration of the factors set out in this Section, the Design-Builder acknowledges and agrees that time is particularly of the essence in the Design-Builder's performance of the Work in accordance with the agreed date of commencement of the Work, the agreed dates of Substantial Completion and Final Completion of the Work, and the approved Construction Schedule. The Owner will incur serious and substantial special, incidental and consequential damages if completion of the Work does not occur within the required Contract Time. It would be difficult if not impossible to determine the amount of Loss of Use damages. Consequently, provisions for liquidated damages as a reasonable estimate of loss are included in the Contract Documents. Such liquidated damages are a reasonable estimate of actual damages from Loss of Use delay and are not a penalty. The Owner's right to liquidated damages for delay is not affected by partial completion, occupancy, or beneficial occupancy. If the Work is to be performed in phases, with separate dates set forth elsewhere in the Contract Documents, then the liquidated damages of this Section shall apply separately to each such phase. The liquidated damages provisions herein are intended to be in addition to every other remedy enforceable at law, equity, or under this Contract, including without limitation additional Owner costs related to the Project, and the right to collect consequential damages in any case where liquidated damages are unenforceable or otherwise unavailable. The provisions shall not relieve or release the Design-Builder from liability for any and all damage or damages suffered by the Owner due to other breaches of the Contract or suffered by separate contractors or under the indemnification and warranty provisions of this Contract, or other damages that are not expressly covered by liquidated damages.

§ 6.4.1 Loss of Use Liquidated Damages. The Owner and Design-Builder acknowledge and agree that if Substantial Completion of the Work is not achieved by the Contract Time for Substantial Completion, the amount of the Owner's actual Loss of Use damages (as described in Section 6.4 above) will be difficult, impractical or impossible to determine. Accordingly, the parties agree that if Substantial Completion is not achieved by the agreed date of Substantial Completion as may be adjusted pursuant to the Contract Documents, the Design-Builder shall pay to the Owner as liquidated damages for the Loss of Use of the Project the following amounts: the sum of five hundred dollars (\$500.00) for each partial day or full day of delay beyond the deadline for Substantial Completion.

§ 6.4.2 The parties further acknowledge and agree that the Design-Builder's obligation to pay liquidated damages under this Section 6 shall be in lieu of the obligation to pay actual delay damages for the Loss of Use damages. The parties agree that the daily rate agreed to above is reasonable in comparison to the approximate scope of actual delay damages for Loss of Use that the parties anticipate as of the time of execution of this Agreement, and that the payment of such liquidated damages is not intended to be a penalty or forfeiture. The parties further acknowledge that these liquidated damages are meant to reimburse the Owner only for such Loss of Use delay damages and that the Owner reserves the right to claim other types of damages against Design-Builder resulting from delays, including but not limited to other delay damages.

Article 7

Contract Price

7.1 Contract Price.

7.1.1 Owner shall pay Design-Builder in accordance with Article 6 of the General Conditions of **\$___cost plus approach_____** for the Phase 1 Services, subject to adjustments made in accordance with the General Conditions of Contract. Unless otherwise provided in the Contract Documents, the Phase 1 Services compensation is deemed to include all sales, use, corporate activity, consumer and other taxes mandated by applicable Legal Requirements.

7.1.2 For Phase 2 Services, Owner shall pay Design-Builder in accordance with Article 7 of the General Conditions of Contract a contract price ("Contract Price") equal to the Design-Builder's Fee (as defined in Section 7.4 hereof) plus the Cost of the Work (as defined in Section 7.5 hereof), subject to any GMP established in Section 7.6 hereof or as set forth in the Contract Price Amendment and any adjustments made in accordance with the General Conditions of Contract.

7.2 DELETED

7.3 DELETED

7.4 Design-Builder's Fee.

7.4.1 Design-Builder's Fee shall be:

(Choose one of the following:)

☐ _____ Dollars (\$ _____), as adjusted in accordance with Section 7.4.2 below.

or

☒ **Cost plus approach** or ___ percent (___%) of the Cost of the Work, as adjusted in accordance with Section 7.4.2 below. The Design-Builder's Fee shall be stated as a lump sum in the Contract Price Amendment. The Design-Builder's Fee is inclusive of all profit, overhead and all other indirect and non-reimbursable

costs, and is inclusive of costs of preparation of, and response to inquiries relating to, Design-Builder's required monthly reports to Owner.

No Fee shall be applied to the following Fee Exclusion items: [Insurance and Bond Charges]

7.4.2 Design-Builder's Fee will be adjusted as follows for any changes in the Work:

7.4.2.1 For additive Change Orders, including additive Change Orders arising from both additive and deductive items, it is agreed that Design-Builder shall receive a Fee of a cost-based approach of the additional Costs of the Work incurred for that Change Order.

7.4.2.2 For deductive Change Orders, including deductive Change Orders arising from both additive and deductive items, the deductive amounts shall include:

[Check one box only]

☐ No additional reduction to account for Design-Builder's Fee or any other markup.

or

☒ An amount equal to the cost plus approach (___ %) applied to the direct costs of the net reduction (which amount will account for a reduction associated with Design-Builder's Fee).

7.4.3 The maximum Fee increase for work performed by Subcontractors shall be based on the following schedule:

.1 For each Subcontractor involved, for Work performed by that Subcontractor's own forces, the following percent of the allowed cost:

Costs up to \$1000:	15%
Costs between \$1001 and \$10,000:	12%
Costs over \$10,000:	10%

.2 For each Subcontractor involved (and for Design-Builder), for Work performed by Design-Builder or that Subcontractor's Subcontractors, the following percent of the amount due the Subcontractor:

Costs up to \$1000:	10%
Costs between \$1001 and \$10,000:	7%
Costs over \$10,000:	5%

.3 The cost to which this Fee is to be applied shall be determined in accordance with Paragraph 7.5.1-7.5.4.

.4 The total sum of the fee of the Design-Builder and all Subcontractors of any tier shall not exceed 20%. None of the fee percentages authorized in this Paragraph 7.5.6 may be compounded with any other fee percentage or percentages authorized in this paragraph.

If a change in the Work involves both additive and deductive items, the appropriate Fee allowed will be added to the net difference of the items. If the net difference is negative, no Fee will be added to the negative figure as a further deduction.

7.5 Cost of the Work.

7.5.1 The term Cost of the Work shall mean only costs reasonably incurred by Design-Builder in the proper performance of the Work in accordance with this Section 7.5. The Cost of the Work shall include only the following:

7.5.1.1 Wages of direct employees of Design-Builder performing the Work at the Site or, with Owner's agreement, at locations off the Site, provided, however, that the costs for those employees of Design-Builder performing design services shall be calculated on the basis of prevailing market rates for design professionals performing such services or, if applicable, those rates set forth in an Attachment to this Agreement. If applicable prevailing wage rates for personnel are actually higher than as established under this Agreement, Design-Builder shall pay or cause to be paid the difference, and the difference shall not be a Cost of the Work.

7.5.1.2 Wages or salaries of Design-Builder's supervisory and administrative personnel engaged in the performance of the Work and who are located at the Site or, with Owner's written approval, working off-Site to assist in the production or transportation of material and equipment necessary for the Work.

7.5.1.3 Wages or salaries of Design-Builder's personnel stationed at Design-Builder's principal or branch offices, but only to the extent said personnel are identified in Attachment D and only for time performing the function set forth in said Attachment.

7.5.1.4 Costs incurred by Design-Builder for employee benefits, premiums, taxes, insurance, contributions and assessments required by law, collective bargaining agreements, or which are customarily paid by Design-Builder, to the extent such costs are based on wages and salaries paid to employees of Design-Builder covered under Sections 7.5.1.1 through 7.5.1.3 hereof.

7.5.1.5 The reasonable portion of the cost of travel, accommodations and meals for Design-Builder's personnel necessarily and directly incurred in connection with the performance of the Work, with Owner's prior written approval as to rates.

7.5.1.6 Payments properly made by Design-Builder to Subcontractors and Design Consultants for proper performance of portions of the Work, including any insurance premiums incurred by Subcontractors and Design Consultants, provided Owner shall not be obligated to pay or reimburse for subcontractor bonds or subcontractor default insurance.

7.5.1.7 Costs incurred by Design-Builder in repairing or correcting defective, damaged or nonconforming Work (excluding any warranty or corrective Work performed after Substantial Completion), provided that such Work was beyond the reasonable control of Design-Builder, and not caused by mistakes, inadvertence, breach or negligence of Design-Builder or those working by or through Design-Builder. If the costs associated with such Work are recoverable from insurance, Subcontractors or Design Consultants, Design-

Builder shall exercise best efforts to obtain recovery from the appropriate source and provide credit to Owner if recovery is obtained.

7.5.1.8 Costs, including transportation, inspection, testing, storage, and handling of materials, equipment, and supplies incorporated or reasonably used in completing the Work.

7.5.1.9 Costs less salvage value of materials (to allow for reasonable waste and spoilage), supplies, temporary facilities, machinery, equipment and hand tools not customarily owned by the workers that are not fully consumed in the performance of the Work and which remain the property of Design-Builder, including the costs of transporting, inspecting, testing, handling, installing, maintaining, dismantling, and removing such items; provided Owner may elect to retain any excess or unused materials or supplies.

7.5.1.10 Costs of removal of debris and waste from the Site.

7.5.1.11 The reasonable costs and expenses incurred in establishing, operating and demobilizing the Site office, including the cost of facsimile transmissions, long-distance telephone calls, postage and express delivery charges, telephone service, photocopying, and reasonable petty cash expenses.

7.5.1.12 Rental charges and the costs of transportation, installation, minor repairs and replacements, dismantling and removal of temporary facilities, machinery, equipment and hand tools not customarily owned by the workers, which are provided by Design-Builder at the Site, whether rented from Design-Builder or others, and incurred in the performance of the Work.

7.5.1.13 Premiums for insurance and bonds required by this Agreement or the performance of the Work, at rates approved in advance by the Owner in writing.

7.5.1.14 All fuel and utility costs incurred in the performance of the Work, excluding corporate activity tax.

7.5.1.15 Sales, use, or similar taxes, tariffs, or duties incurred in the performance of the Work.

7.5.1.16 Costs for permits, royalties, licenses, tests and inspections incurred by Design-Builder as a requirement of the Contract Documents.

7.5.1.17 Deposits which are lost, except to the extent caused by Design-Builder's negligence, or negligence of those working by or through Design-Builder.

7.5.1.18 Costs incurred in preventing damage, injury, or loss in case of an emergency affecting the safety of persons and property, unless arising from Design-Builder's negligence or negligence of those working by or through Design-Builder.

7.5.1.19 Accounting and data processing costs related to the Work.

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

7.5.2 Non-Reimbursable Costs. The following shall be excluded from the Cost of the Work:

7.5.2.1 Compensation for Design-Builder's personnel stationed at Design-Builder's principal or branch offices, except as provided for in Sections 7.5.1.1, 7.5.1.2, and 7.5.1.3 hereof.

7.5.2.2 Overhead and general expenses, except as provided for in Section 7.5.1 hereof, or which may be recoverable for changes to the Work.

7.5.2.3 The cost of Design-Builder's capital used in the performance of the Work.

7.5.2.4 If the parties have agreed on a GMP, costs that would cause the GMP, as adjusted in accordance with the Contract Documents, to be exceeded.

7.5.2.5 Bonuses, profit sharing, incentive compensation, and any other discretionary payments, paid to anyone hired by the Design-Builder or paid to any Subcontractor or vendor, unless the Owner has provided prior written approval.

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

7.5.2.7 Costs for services incurred during the Preconstruction Phase.

7.5.2.8 Data processing or software costs related to the Work.

7.5.2.9 Any cost incurred by Design-Builder, including bond costs in response to any lien, stop notice, bonded stop notices or other such claims, unless the cost incurred by Design-Builder is solely the result of Owner's failure to make a payment to Design-Builder when due and payable with respect to the Work in question.

7.5.2.10 Costs to correct nonconforming work or to perform warranty work following Final Completion.

7.5.2.11 Travel, lodging, food, or relocation expenses, unless approved by Owner pursuant to Section 7.5.1.5.5.

7.5.2.12 Costs of preparation of, and response to inquiries relating to, Design-Builder's required monthly reports to Owner.

7.5.2.13 Corporate Activity Tax.

7.5.2.14 Any cost not specifically and expressly described as Cost of the Work in Section 7.5.1;

7.5.3 As to change work, in the event of conflict between the provisions of this Section 5 and the General Conditions, the provision more favorable to Owner (including any identification of chargeable costs) shall take precedence.

7.5.4 Where, pursuant to the Contract Documents, any cost is subject to the Owner's prior approval, the Design-Builder shall obtain such approval in writing prior to incurring the cost. The parties shall endeavor to identify any such costs prior to executing the Contract Price Amendment.

7.5.5 Costs shall be at rates not higher than the standard rates paid at the place of the Project, except with prior approval of the Owner.

7.5.6 Related Party Transactions. For purposes of this Section 7.5.6, the term "related party" shall mean (1) a parent, subsidiary, affiliate, or other entity having common ownership of, or sharing common management with, the Design-Builder; (2) any entity in which any stockholder in, or management employee of, the Design-Builder holds an equity interest in excess of ten percent in the aggregate; (3) any entity which has the right to control the business or affairs of the Design-Builder; or (4) any person, or any member of the immediate family of any person, who has the right to control the business or affairs of the Design-Builder.

7.5.7 If any of the costs to be reimbursed arise from a transaction between the Design-Builder and a related party, the Design-Builder shall notify the Owner of the specific nature of the contemplated transaction, including the identity of the related party and the anticipated cost to be incurred, before any such transaction is consummated or cost incurred. If the Owner, after such notification, authorizes the proposed transaction in writing, then the cost incurred shall be included as a cost to be reimbursed, and the Design-Builder shall procure the Work, equipment, goods, or service, from the related party, as a Subcontractor, according to the terms of Article 9. If the Owner fails to authorize the transaction in writing, the Design-Builder shall procure the Work, equipment, goods, or service from some person or entity other than a related party according to the terms of Article 9.

(The parties shall comply with the following Section 7.6 based upon whether the GMP is agreed upon before the execution of this Agreement or will be developed and agreed upon after execution of this Agreement. If the parties do not use a GMP, this Section 7.5 shall be deemed inapplicable and compensation to Design-Builder shall be based on those fees and costs identified in the balance of this Article 7.)

7.6 The Guaranteed Maximum Price.

[In lieu of 7.6.1, Owner and Design-Builder may want to include the following language.]

7.6.1 Design-Builder guarantees that it shall not exceed GMP. Documents used as basis for the GMP shall be identified as the Contract Price Amendment to this Agreement. Design-Builder does not guarantee any specific line item provided as part of the GMP, provided, however, that it does guarantee the line item for its general project management and general conditions costs as set forth in the Contract Price Amendment ("General Conditions Cap"). Design-Builder agrees that it will be responsible for paying the applicable general conditions costs in excess of the General Conditions Cap, as well as be responsible for all costs of completing the Work which exceed the GMP, as said general conditions line item and the GMP may be adjusted in accordance with the Contract Documents, including but not limited to the markups for Change Orders set forth in Section 7.3 herein. The Contingency may be used only for items that are included in the Cost of the Work under Section 7.5.

7.6.2 The GMP includes a Contingency in the amount of five percent (5%) of the GMP, which is available for Design-Builder's exclusive use for unanticipated costs it has incurred that are not the basis for a Change Order under the Contract Documents. By way of example, and not as a limitation, such costs may include: (a) trade buy-out differentials; (b) overtime or acceleration; (c) escalation of materials; (d) correction of defective, damaged or nonconforming Work, design errors or omissions, however caused; (e) Subcontractor defaults; or (f) those events under Section 8.2.2 of the General Conditions of Contract that result in an extension of the Contract Time but do not result in an increase in the Contract Price. Unused Contingency is available to Owner for any reason, including changes in scope or any other item which would enable Design-Builder to increase the GMP under the Contract Documents. Design-Builder shall provide Owner notice of all anticipated charges against the Contingency and shall provide Owner as part of the monthly status report required by Section 2.1.2 of the General Conditions of Contract an accounting of the Contingency, including all reasonably foreseen uses or potential uses of the Contingency in the upcoming three (3) months. Design-Builder agrees that with respect to any expenditure from the Contingency relating to a Subcontractor default or an event for which insurance or bond may provide reimbursement, Design-Builder will in good faith exercise reasonable steps to obtain performance from the Subcontractor and/or recovery from any surety or insurance company. Design-Builder agrees that if Design-Builder is subsequently reimbursed for said costs, then said recovery will be credited back to the Contingency. The Contingency may be used only for items that are included in the Cost of the Work under Section 7.5.

7.6.3 Savings.

7.6.3.1 If the sum of the actual Cost of the Work and Design-Builder's Fee (and, if applicable, any prices established under Section 7.1.3 hereof) is less than the GMP, as such GMP may have been adjusted over the course of the Project, the difference ("Savings") shall be shared as follows:

☒ One Hundred percent (100%) to Owner.

7.7 Allowance Items and Allowance Values.

7.7.1 Any and all Allowance Items, as well as their corresponding Allowance Values, are set forth in the Contract Price Amendment or the Proposal.

7.7.2 Design-Builder and Owner shall 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.

7.7.3 No work shall be performed on any Allowance Item without Design-Builder first obtaining in writing advance authorization to proceed from Owner.

7.7.4 The Allowance Value includes the direct cost of design, engineering, labor, materials, equipment, transportation, taxes, and insurance associated with the applicable Allowance Item. All other costs, including 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 notwithstanding the actual amount of the Allowance Item.

7.7.5 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 7.7.4. 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 8

Procedure for Payment

8.1 Payment for Preliminary Services. Design-Builder and Owner agree upon the following method for partial and final payment to Design-Builder for the services hereunder: *(Insert terms.)*

8.2 Contract Price Progress Payments.

8.2.1 Design-Builder shall submit to Owner on the first (1st) day of each month, beginning with the first month after the Date of Commencement, Design-Builder's Application for Payment in accordance with Article 6 of the General Conditions of Contract. Each Application for Payment must include waivers of claims and liens by Design-Builder and its consultants and subcontractors in the forms attached to this Agreement or, if no such forms are attached, in forms acceptable to the Owner.

8.2.2 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, and less amounts properly withheld under Section 6.3 of the General Conditions of Contract.

8.2.3 If Design-Builder's Fee under Section 7.4 hereof is a fixed amount, the amount of Design-Builder's Fee to be included in Design-Builder's monthly Application for Payment and paid by Owner shall be proportional to the percentage of the Work completed, less payments previously made on account of Design-Builder's Fee.

8.3 Retainage on Progress Payments.

8.3.1 Owner will retain five percent (5%) of each Application for Payment. Owner will also reasonably consider reducing retainage for Subcontractors completing their work very early in the Project, such as excavators.

8.3.2 Within fifteen (15) days after Final Completion of the entire Work, pursuant to Section 6.6 of the General Conditions of Contract, Owner shall release to Design-Builder all retained amounts relating, as applicable, to the entire Work or completed portion of the Work, less an amount equal to all amounts Owner is entitled to withhold pursuant to Section 6.3 of the General Conditions of Contract.

8.4 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 (less any amount the parties may have agreed to set aside for warranty work) 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.

8.5 Interest. Payments due and unpaid by Owner to Design-Builder, whether progress payments or final payment, shall bear interest commencing five (5) days after payment is due at the rate provided under Oregon law.

8.6 Record Keeping and Finance Controls. Design-Builder acknowledges that this Agreement is to be administered on an "open book" arrangement relative to Costs of the Work. 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 the Work, 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.

Article 9

Termination for Convenience

9.1 Upon ten (10) days' written notice to Design-Builder, Owner may, for its convenience and without cause, elect to terminate this Agreement. In such event, Owner shall pay Design-Builder for the following:

9.1.1 All services performed and Work executed and for proven direct loss, cost, or expense in connection with the services and Work, with Design-Builder's Fee (**5.0%**) on the sum, but otherwise excluding loss of profit, general overhead or lost opportunities;

9.1.2 The reasonable costs and expenses attributable to such termination, including demobilization costs and amounts due in settlement of terminated contracts with Subcontractors and Design Consultants

9.3 If Owner terminates this Agreement pursuant to Section 9.1 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 Section 5.3 hereof.

[The following Article 10 should only be used if Owner and Design-Builder agree to establish their respective representatives at the time the Agreement is executed rather than during the performance of the Project.]

Article 10

Representatives of the Parties

10.1 Owner's Representatives.

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

*Bill Tovey, Director Economic and Community Development
46411 Timine Way
Pendleton, OR 97801
billtovey@ctuir.org*

10.1.2 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 of Contract:

*Bill Tovey, Director Economic and Community Development
46411 Timine Way
Pendleton, OR 97801
billtovey@ctuir.org*

10.2 Design-Builder's Representatives.

10.2.1 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 of Contract: *(Identify individual's name, title, address, and telephone numbers.)*

10.2.2 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 of Contract: *(Identify individual's name, address, and telephone numbers.)*

Article 11

Bonds and Insurance

11.1 Insurance. Design-Builder and Owner shall procure the insurance coverages set forth in the Insurance Attachment attached hereto and in accordance with Article 5 of the General Conditions of Contract.

11.2 Bonds and Other Performance Security. Prior to any Phase 2 Work, Design-Builder shall provide the following performance bond and labor and material payment bond or other performance security:

Performance Bond.

(Check one box only. If no box is checked, then no bond is required.)

☒ Required ☐ Not Required

Payment Bond.

(Check one box only. If no box is checked on the amount of the GMP, or Early Work amount, then no bond is required.)

☒ Required ☐ Not Required

Other Performance Security.

(Check one box only. If no box is checked on the amount of the GMP, or Early Work amount, then no other performance security is required. If the "Required" box is checked, identify below the specific performance security that is being required and all salient commercial terms associated with that security.)

☒ Required ☐ Not Required

Article 12

Other Provisions

12.1 Other provisions, if any, are as follows: *(Insert any additional provisions.)*

12.2 Listing of Attachments and documents incorporated herein:

Attachment C – Insurance Requirements

Attachment E - DBIA Document No. 535, Standard Form of General Conditions of Contract Between Owner and Design-Builder (2010 Edition) ("General Conditions of Contract")

Attachment F – Supplemental General Conditions

Attachment G – Owner's Permit List

Attachment H – Fee Matrix

Attachment I – TERO Provisions

☒ Notwithstanding Section 2.3.1 of the General Conditions of Contract, if the parties agree also upon specific performance standards in the Basis of Design Documents, the design professional services shall be performed to achieve such standards.

[In lieu of Sections 10.3.1 through 10.3.3 of the General Conditions of Contract, the Parties may want to delete such sections and include the following alternative disputes proceeding clause.]

12.3 Dispute Resolution.

1. Owner states, and Design-Builder understands and acknowledges, that Owner is a wholly owned and operated enterprise of the Confederated Tribes of the Umatilla Indian Reservation (CTUIR), a federally recognized Indian Tribe, and is entitled to all the protections and immunities afforded by the laws of the United States to Indian Tribal Governments, including, but not limited to, immunities from suit in Tribal, Federal, and State Courts. Nothing in this Agreement is or may be construed as a general waiver of Owner's sovereign immunity, which immunity is expressly asserted and retained. Owner hereby provides an irrevocable limited waiver of sovereign immunity from suit on the following terms and conditions, which terms and conditions Design-Builder expressly accepts and acknowledges:

(a) This irrevocable limited waiver of sovereign immunity by Owner is solely for the purpose of dispute resolution and is granted only to Design-Builder.

(b) This irrevocable limited waiver of sovereign immunity applies only to claims arising out of or under this Agreement and does not apply to non-contractual claims or to claims under any other agreement between Owner and Design-Builder. Nothing in this irrevocable limited waiver of sovereign immunity creates a contractual relationship with or a cause of action in favor of any third party against Owner.

(c) This irrevocable limited waiver of sovereign immunity applies only to the enforcement of a settlement agreement achieved in mediation, compelling arbitration, or the enforcement of an arbitration award in the courts identified below, provided such settlement agreement or arbitration award has been secured in the form and under the terms stated below.

(d) This irrevocable limited waiver of sovereign immunity will be effective as of the date of this Agreement and will continue for a period of two (2) years following the final completion of the Work subject to this Agreement or earlier termination or cancellation of this Agreement, except that Owner's limited waiver of sovereign immunity will remain effective for any arbitration proceeding then pending and until the conclusion of any enforcement action therefrom in the courts as described below.

(e) This Agreement does not encumber any land of Owner or otherwise subject this Agreement to the requirements of 25 U.S.C. § 81.

2. Procedures. All disputes between the parties and all claims arising under or related to this Agreement will be subject to the dispute resolution procedures set forth below, and the parties will not be permitted or entitled to bring any such disputes or claims in Tribal, State, or Federal Court, except as stated herein. In other words, should a dispute arise, the parties will be required to (1) negotiate in good faith according to subsection 3; (2) mediate according to subsection 4; and if mediation does not resolve the dispute; (3) arbitrate according to subsection 5, in that order. An arbitration award may only be enforced in the manner described in subsection 6.

3. Good Faith Negotiations. The parties will attempt in good faith to resolve through negotiation any dispute, claim, or controversy arising out of or relating to this Agreement. The parties may initiate negotiations by providing written notice in letter form to the other party, setting forth the subject of the dispute and the relief requested. The recipient of such notice will respond within five (5) business days with a written statement of its position on, and recommended solution to, the dispute. If the dispute is not resolved by this exchange of correspondence, then representatives of each party with full settlement authority will meet at a mutually agreeable time and place within five (5) business days of the date of the responsive written correspondence in order to exchange relevant information and perspectives, and to attempt to resolve the dispute. If the dispute is not resolved by these negotiations, the parties will proceed with dispute resolution in accordance with subsection 4 below.

4. Mediation. If good faith negotiations under subsection 3 fail to resolve the dispute, either party may commence mediation by providing to the other party a written request for mediation, setting forth the subject of the dispute and the relief requested. The parties will cooperate with the American Arbitration Association ("AAA") and with one another in selecting a mediator from the AAA's panel of neutrals, and in scheduling the mediation proceedings, which will take place in Pendleton, Oregon. The parties will make a good faith effort to select a mediator who has a working knowledge of construction law and Indian law. If the parties are unable to agree upon a mutually-acceptable mediator within five (5) business days, AAA will select one with such qualifications from its panel of neutrals. The parties will proceed with mediation under the AAA's Construction Industry Arbitration Rules and Mediation Procedures (in effect at the time), and any additional procedures established by the AAA mediator. Any dispute resolution achieved through mediation will be set forth in writing and will be enforceable under subsection 6 below. Parties may mutually agree in writing to waive Mediation and proceed directly into Arbitration.

5. Arbitration. If the dispute is not resolved by mediation, it will be resolved by final binding arbitration by the AAA in Pendleton, Oregon, using one arbitrator and following the AAA's Construction Industry Arbitration Rules and Mediation Procedures as then in effect. Either party may initiate arbitration by providing a written notice of its intention to arbitrate to the other party, upon either a written determination by the mediator or the parties' mutual written agreement that mediation has been unsuccessful, or at any time at least sixty (60) days after the initial meeting with the mediator. Following a party's receipt of the written notice of the other party's intention to arbitrate, the parties will make a good faith effort to select an arbitrator within five (5) business days thereafter. The arbitrator selected must have at least ten (10) years of legal experience in construction law and Indian law. If the parties are unable to agree to a mutually acceptable arbitrator within five (5) business days, the AAA will select one with such qualifications. The award rendered by the arbitrator will be final. The prevailing party in any arbitration proceeding shall be entitled to an award of its reasonable attorneys' and experts' fees and other expenses incurred in the arbitration.

6. Enforcement of Arbitration Award / Settlement Agreement / Arbitration. If the arbitration award is against Design-Builder and in favor of Owner, or if Owner needs to enforce a settlement agreement achieved in mediation as described in subsection 4 above or compel arbitration, judgment may be entered upon it in any court of competent jurisdiction. If an arbitration award is in favor of Design-Builder and against Owner, and Design-Builder needs judgment to be entered and enforced, or if Design-Builder needs to enforce a settlement agreement achieved in mediation as described in subsection 4 above, Owner consents to jurisdiction and judgment may be entered upon it exclusively in the Owner's Tribal Court or the United States District Court for the District of Oregon; or if Design-Builder needs to compel arbitration, in furtherance of the irrevocable limited waiver of sovereign immunity contained herein, Owner consents to jurisdiction of the following courts: (a) United States District Court for the District of Oregon (and all federal courts to which decisions of the United States District Court for the District of Oregon may be appealed); and (b) the Owner's Tribal Court. For purposes of this Agreement, Owner expressly and irrevocably waives any application of the exhaustion of tribal remedies or abstention doctrine and any other law, rule, regulation, or interpretation that might otherwise require, as a matter of law or comity, that resolution of a claim arising under this Agreement be heard first in a Tribal Court or any other dispute resolution process of the Owner. The parties agree with regard to an arbitration award that the courts specified above will only enforce the award rendered by the arbitrator, and that such award is not subject to any appeal, objection, or reconsideration in the courts other than as permitted of a federal court under 9 U.S.C. §§ 10 or 11. Moreover, Owner expressly states, and Design-Builder understands and acknowledges, that Owner does not waive its sovereign immunity from suit in any other court other than specified above.

7. Condition of Contract. This Agreement shall be of no force and effect until Owner furnishes Design-Builder with a resolution passed by the governing body of the CTUIR that it agrees to the limited waiver of sovereign immunity and consents to the jurisdiction of Federal and Tribal Court, as specified in this Disputes provision.

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

OWNER:

CONFEDRATED TRIBES OF THE
UMATILLA INDIAN RESERVATION

(Name of Owner)

(Signature)

(Printed Name)

(Title)

Date: _____

DESIGN-BUILDER:

NAME

(Name of Design-BUILDER)

(Signature)

(Printed Name)

(Title)

Date: _____

Caution: An original DBIA document has this caution printed in blue. This is a printable copy and an original assures that changes will not be obscured as may occur when documents are reproduced.

