

Exhibit #6

Proposer Acknowledgement of Receipt:

Authorized Signature: _____ *Date:* _____

Printed Name: _____

Title: _____

[SAMPLE] ENGINEERING MASTER SERVICES AGREEMENT

This Engineering Master Services Agreement is between the Columbia Development Authority, an entity formed by Intergovernmental Agreement between the County of Morrow, County of Umatilla, CDA of Morrow, CDA of Umatilla and the Confederated Tribes of the Umatilla India Reservation Oregon Municipal Corporation, (hereinafter referred to as “**CDA**”), and _____, (hereinafter referred to as “**Consultant**”).

In consideration of the mutual covenants set forth in this Agreement, CDA authorizes Consultant and Consultant agrees to carry out and complete services as described below:

1. **PROJECT:** Work shall be performed by Consultant in connection with a project generally described as: Provide professional engineering services from time to time as assigned by Work Order, which may include, but not be limited to:
 - a. to administer the transition of the Umatilla Army Depot (Depot) located in Morrow and Umatilla Counties from military to civilian use;
 - b. to develop a final Umatilla Army Depot Land Reuse Plan (Reuse Plan) for approval by the Department of Defense;
 - c. to oversee the development of an economic diversification strategy to address the adverse economic impacts associated with realignment of the Depot and to develop economic opportunities through transition of the Depot to civilian uses;
 - d. to implement the final Reuse Plan;
 - e. to coordinate all levels of assistance and intergovernmental efforts involving the Authority, the final Reuse Plan and transition to civilian use;
 - f. to review and comment upon the environmental cleanup at the Depot so as to accommodate future civilian uses of the Depot; and
 - g. to perform such other functions as may be necessary for implementation of the final Reuse Plan.

2. **SCOPE OF SERVICES:** The Consultant shall be responsible for the performance of all services as set forth in Work Orders issued by CDA from time to time (the “Services”). A Sample Work Order form is attached hereto as **Exhibit ‘A’**. Consultant shall perform the Services using the degree of skill and knowledge customarily employed by professionals performing similar services in the community. The Consultant shall be responsible for providing, at the Consultant’s cost and expense, all management, supervision, materials, administrative support, supplies, and equipment necessary to perform the Services as described herein, all in accordance with this Agreement.

3. **TERM OF AGREEMENT:** The term of this Agreement shall begin on the date this contract is fully executed and shall terminate on [REDACTED]. This Agreement may be extended by CDA for four (4) one year terms, each expiring on [REDACTED] of the subsequent calendar year.
4. **TIME OF THE ESSENCE:** The Services of the Consultant shall be undertaken and completed in such a manner and in such a sequence as to assure their expeditious completion in light of the purpose of this Agreement. It is agreed that time is of the essence in the performance.
5. **COMPENSATION:** The CDA shall pay fees to the Consultant for Services performed under the terms of this Agreement and as specified in each individual Work Order. The total aggregate amount of all Work Orders under this Agreement shall not exceed **Five Hundred Thousand Dollars (\$500,000)**("Compensation"), unless otherwise approved in writing by CDA.

Unless otherwise provided in a Work Order, Consultant shall submit monthly invoices based on hours worked and tasks completed under each Work Order and at the rates approved by such Work Order. Invoices shall include a detailed description of work performed and include evidence of any reimbursable expenses in a form acceptable to the CDA.

If CDA does not pay within twenty-five (25) days of receipt of invoice acceptable to CDA, the invoice shall incur a service charge of 9% per annum on the unpaid monthly balance. Consultant reserves the right to withhold services or cancel this Agreement if CDA's account is more than ninety (90) days delinquent.

6. **STATUS OF CONSULTANT AND RELATIONSHIP TO CDA:** The Consultant is an independent contractor and nothing contained herein shall be construed as constituting any relationship with CDA other than that as owner and independent contractor, nor shall it be construed as creating any relationship whatsoever between CDA and any of the Consultant's employees. Neither the Consultant nor any of the Consultant's employees are nor shall they be deemed employees of CDA. The Consultant is not and shall not act as an agent of CDA. All employees who assist the Consultant in the performance of the Services shall at all times be under the Consultant's exclusive direction and control. The Consultant shall pay all wages, salaries and other amounts due the Consultant's employees in connection with the performance of the Services and shall be responsible for all reports and obligations respecting such employees, including without limitation social security tax, income tax withholding, unemployment compensation, worker's compensation, employee benefits and similar matters. Further, the Consultant has sole authority and responsibility to employ, discharge and otherwise control the Consultant's employees. The Consultant has sole authority and responsibility as principal for the Consultant's agents, employees, sub-consultants and all others the Consultant hires to perform or assist in performing the Services. CDA's only interest is in the results to be achieved.
7. **REPRESENTATIONS:** The Consultant represents and covenants that:
- The Consultant has the required authority, ability, skills and capacity to, and shall, perform the services in a manner consistent with this Agreement. Further, any employees and sub-consultants of the Consultant employed in performing the Services shall have the skill, experience and licenses required to perform the Services assigned to them.
 - To the extent the Consultant deems necessary, in accordance with prudent practices, the Consultant has inspected the sites and all of the surrounding locations whereupon the Consultant may be called to perform the Consultant's obligations under this Agreement, and is familiar with requirements of the Services and accepts them for such performance.
 - The Consultant has knowledge of all of the legal requirements and business practices in the State of Oregon that must be followed in performing the Services and the Services shall be performed in conformity with such requirements and practices.

- d. The Consultant is validly organized and exists in good standing under the laws of the State of Oregon, and has all the requisite powers to carry on the Consultant's business as now conducted or proposed to be conducted and the Consultant is duly qualified, registered or licensed to do business in good standing in the State of Oregon.
- e. The execution, delivery and performance of this Agreement and the consummation of the transactions contemplated hereby have been duly authorized by all necessary action and do not and will not (a) require any further consent or approval of the board of directors or any shareholders of the Consultant or any other person which has not been obtained or (b) result in a breach of default under the certificate of incorporation or by-laws of the Consultant or any indenture or loan or credit agreement or other material agreement or instrument to which the Consultant is a party or by which the Consultant's properties and assets may be bound or affected. All such consents and approvals are in full force and effect.

8. CONSULTANT'S INSURANCE:

Consultant shall keep and maintain the following insurance for the duration of the contract period:

- a. Commercial General Liability insurance on an occurrence basis with a limit of not less than \$1,000,000 each occurrence for bodily injury and property damage and \$2,000,000 general aggregate. The Liability Insurance coverage shall provide contractual liability. The coverage shall name the CDA of Hood River and each of its Commissioners, officers, agents, and employees as Additional Insured with respect to Contract.
- b. Automobile Liability insurance with a combined single limit of not less than \$1,000,000 each occurrence for bodily injury and property damage, including coverage for owned, hired, or non-owned vehicles, as applicable.
- c. Professional Liability insurance with a \$1,000,000 per claim and \$1,000,000 in the aggregate for malpractice or errors and omissions coverage against liability for personal injury, death or damage of property, including loss of use thereof, arising from the firm's acts, errors or omissions in any way related to this Contract.
- d. Prior to commencing any work under this Agreement, the Consultant shall provide the CDA with a certificate or certificates evidencing the insurance required by this section, as well as the amounts of coverage for the respective types of coverage. If the Consultant sub-contracts any portion(s) of the Services, said sub-consultant(s) shall be required to furnish certificates evidencing statutory worker's compensation insurance, comprehensive general liability insurance and professional liability insurance coverage in amounts satisfactory to the CDA and the Consultant. If the coverage under this paragraph expires during the term of this Agreement, the Consultant shall provide replacement certificate(s) evidencing the continuation of required policies.
- e. Workers' Compensation insurance in compliance with ORS 656.017, which requires subject employers to provide Oregon workers' compensation coverage for all their subject workers. (Required of contractors with one or more employees, unless exempt under ORS 656.027.)

As evidence of the insurance coverage required by this Contract, the Contractor shall furnish acceptable insurance certificates to the CDA at the time Contractor returns the signed Contract. The Commercial General Liability certificate shall provide that the CDA, its Commissioners, officers, agents, and employees are Additional Insured but only with respect to the Contractor's services to be provided under this Contract. Endorsement CG 20 10 11 85 or its equivalent must be

attached to the Certificate. The Certificate shall provide that the insurance shall not terminate or be canceled without 30 days written notice first being given to CDA. Insuring companies or entities are subject to CDA acceptance. If requires, complete copies of the insurance policy shall be provided to CDA. The contractor shall be financially responsible for all pertinent deductibles, self-insured retentions, and/or self-insurance.

If any policy obtained by the Consultant is a claims-made policy, the following conditions shall apply: the policy shall provide the Consultant has the right to purchase, upon cancellation or termination by refusal to renew the policy, an extended reporting period of not less than two (2) years. The Consultant agrees to purchase this extended insurance coverage and to keep it in effect during the reporting period. If the policy is a claims-made policy, the retroactive date of any renewal of such policy shall be not later than the date this Agreement is signed by the parties hereto. If the Consultant purchases a subsequent claims-made policy in place of the prior policy, the retroactive date of such subsequent policy shall be no later than the date this Agreement is signed by the parties hereto.

9. **INDEMNIFICATION:** The Consultant shall indemnify, defend and hold harmless CDA, its commissioners, employees and agents, from and against any and all claims, demands, suits, actions, proceedings, judgments, losses, damages, injuries, penalties, costs, expenses (including attorney's fees) and liabilities to the extent, they are directly resulting from, or alleged to arise from, the acts of the Consultant, or any of the Consultant's sub-consultants, Consultant's suppliers or Consultant's employees arising in connection with the performance of this Agreement. The obligations of the indemnifications extended by the Consultant to the CDA shall survive the termination or expiration of this Agreement. Notwithstanding the foregoing, Consultant shall not be required to indemnify CDA or any of the indemnified persons above for any liability arising from CDA's or such person's own fault.
10. **CONFIDENTIALITY:** During the performance of the Agreement and for all time subsequent to completion of the Services under this Agreement, the Consultant agrees not to use or disclose to anyone, except as required by the performance of this Agreement or by law, or as otherwise authorized by the CDA, any and all information given to the Consultant by the CDA or developed by the Consultant as a result of the performance of this Agreement. The Consultant agrees that if the CDA so requests, the Consultant will execute a confidentiality agreement in a form acceptable to the CDA, and will require any employee or sub-consultant performing work under this Agreement or receiving any information deemed confidential by the CDA to execute such a confidentiality agreement.
11. **ASSIGNMENT:** Neither party shall assign this Agreement or parts hereof or its duties hereunder, but not including work products produced by the Consultant, without the express written consent of the other party. In the event of dissolution, consolidation or termination of the CDA, the parties agree that the CDA may assign to a successor entity any rights, obligations and functions it may have remaining under this Agreement.
12. **SUBCONSULTANTS:**
 - a. **General.** The Consultant is solely and fully responsible to the CDA for the performance of the Services under this Agreement. Use of any sub-consultant by the Consultant shall be pre-approved by the CDA. The Consultant agrees that each and every agreement of the Consultant with any sub-consultants to perform Services under this Agreement shall be terminable without penalty.
 - b. **Sub-Consultant Commitments:** All of the Consultant's subcontracts in connection with the performance of the Services shall be in writing and include the following provisions:

- i. The subcontract/contract is immediately terminable without cause, and cost for such termination activities shall be determined according to the terms of this Agreement.
- ii. The sub-consultant shall carry insurance in forms and amounts satisfactory to the CDA in its sole discretion, as provided by this Agreement
- iii. All warranties (express or implied) shall inure to the benefit of the CDA and its successors and assigns.

The Consultant shall provide the CDA with a copy of each subcontract executed with the performance of the Services within seven (7) days of each subcontract's execution.

Sub-consultants who assist the Consultant in the performance of the Services shall at all times be under the Consultant's exclusive direction and control and shall be sub-consultants of the Consultant and not consultants of the CDA. The Consultant shall pay or cause each sub-consultant to pay all wages, salaries and other amounts due to the Consultant's sub-consultants in performance of the duties set forth in this Agreement and shall be responsible for any and all reCDAs and obligations respecting such sub-consultants. All sub-consultants shall have the skill and experience and any license or permits required to perform the Services assigned to them.

13. **TERMINATION NOT-FOR-CAUSE:** In addition to any other rights provided herein, CDA shall have the right, at any time and in its sole discretion, to terminate, not for cause, in whole or in part this Agreement, including any Work Order in whole or in part, and further performance of the Services by delivery to the Consultant of written notice of termination specifying the extent of termination and the effective date of termination.
- a. **Obligations of Consultant.** After receipt of a notice of termination, and unless otherwise directed by CDA, the Consultant shall immediately proceed as follows:
 - i. Stop work on the Services as specified in the notice of termination;
 - ii. Terminate all agreements with sub-consultants to the extent they relate to the Services terminated;
 - iii. Submit to CDA detailed information relating to each and every sub-consultant of the Consultant under this Agreement. This information will include sufficient detail so CDA can immediately contact each such sub-consultant to determine the role or function of each in regard to the performance of the Services and if CDA so elects, CDA may engage any sub-consultant for substantially the same terms as have been contracted by the Consultant;
 - iv. Complete performance in accordance with this Agreement of all of the services not terminated; and
 - v. Take any action that may be necessary, or that CDA may direct, for the protection and preservation of the property related to this Agreement that is in the possession of the Consultant and in which CDA has or may acquire an interest.
 - b. **Termination Settlement.** After termination, the Consultant shall submit a final termination settlement proposal to CDA in a form and with a certification prescribed by CDA. The Consultant shall submit the proposal promptly, but no later than thirty (30) days from the effective date of termination, unless extended in writing by CDA upon written request by the Consultant within such thirty-day period. If the Consultant fails to submit the proposal within the time allowed CDA's payment obligations under this Agreement shall be deemed satisfied and no further payment by CDA to the Consultant shall be made.
 - c. **Payment Upon Termination.** As a result of termination without cause CDA shall pay the Consultant in accordance with the terms of this Agreement for the Services performed up to the termination and unpaid at termination.

- d. CDA's Claims and Costs Deductible Upon Termination. In arriving at the amount due the Consultant under this paragraph there shall be deducted any claim which CDA has against the Consultant under this Agreement.
- e. Partial Termination. If the termination is partial CDA shall make an appropriate adjustment of the price of the Services not terminated. Any request by the Consultant for further adjustment of prices shall be submitted in writing within thirty (30) days from the effective date of notice of partial termination or shall be deemed forever waived.

14. **FORCE MAJEURE:** Neither party to this Agreement shall be liable to the other party for delays in or failure to perform services caused by circumstances beyond its reasonable control, including but not limited to acts of God, acts of governmental authorities, strikes, riots, civil unrest, war, lockouts extraordinary weather conditions or other natural catastrophe, or any other cause beyond the reasonable contemplation of either party. For delays resulting from unanticipated material actions or inactions of CDA or third parties, Consultant shall be given an appropriate time extension and shall be compensated for all costs of labor, equipment, and other direct costs Consultant reasonably and necessarily incurs. Delays of more than ninety (90) calendar days shall, at the option of either party, make this contract subject to termination.
15. **RECORD KEEPING:** The Consultant shall maintain all records and documents relating to Services performed under this Agreement for three (3) years after the termination or expiration of this Agreement. This includes all books and other evidence bearing on the Consultants time based and reimbursable costs and expenses under this Agreement. The Consultant shall make these records and documents available to the CDA, at the CDA's office, at all reasonable times, without any charge. If accepted by the CDA, photographs, microphotographs or other authentic reproductions may be maintained instead of original records and documents.
16. **WORK PRODUCT:** All work product of the Consultant prepared pursuant to this Agreement, including but not limited to, all maps, plans, drawings, specifications, reports, electronic files and other documents, in whatever form, shall upon payment of all amounts rightfully owed by CDA to the Consultant for such work produce herein shall become or remain the property of CDA under all circumstances, whether or not the services are complete. When requested by CDA, all work products shall be delivered to the CDA in PDF or full-size, hard copy form. Work products shall be provided to the CDA at the time of completion of any of the discrete tasks specified in the Services. Consultant shall maintain copies on file of any such work product involved in the Services for the term of this Agreement plus three (3) years, shall make them available for CDA's use, and shall provide such copies to the CDA upon request at commercial printing or reproduction rates, even after termination of this Agreement for whatever reason.

Subject to the provisions of the Oregon Public Records Law (the "Law"), all construction documents, including, but not limited to, electronic documents prepared under this Agreement are for use only with this project, and may not be used for any other construction related purpose, or dissemination to any contractor or construction related entity without written approval of the Consultant.

17. **CONSULTANT TRADE SECRETS AND OPEN RECORDS REQUESTS:**
- a. Public Records. The Consultant acknowledges and agrees that all documents in CDA's possession, including documents submitted by the Consultant, are subject to the provisions of the Law, and the Consultant acknowledges that CDA shall abide by the Law, including honoring all proper public records requests. The Consultant shall be responsible for all Consultants' costs incurred in connection with any legal determination regarding the Law,

including any determination made by a court pursuant to the Law. The Consultant is advised to contact legal counsel concerning such acts in application of the Law to the Consultant.

- b. Confidential or Proprietary Materials. If the Consultant deems any document(s) which the Consultant submits to CDA to be confidential, proprietary or otherwise protected from disclosure under the Law, then the Consultant shall appropriately label such document(s), and submit such document(s) to CDA together with a written statement describing the material which is requested to remain protected from disclosure and the justification for such request. The request will either be approved or denied by CDA in CDA's discretion. CDA will make a good faith effort to accommodate a reasonable confidentiality request if in CDA's opinion CDA determines the request complies with the Law.
- c. Stakeholder. In the event of litigation concerning disclosure of any document(s) submitted by consultant to CDA, CDA's sole involvement will be as stakeholder retaining the document(s) until otherwise ordered by the court and the Consultant shall be fully responsible for otherwise prosecuting or defending any actions concerning the document(s) at its sole expense and risk.

18. **DESIGNATION OF REPRESENTATIVES:** The CDA hereby designates _____ and the Consultant hereby designates _____ as the persons who are authorized to represent the parties with regard to administration of this Agreement, subject to limitations, which may be agreed to by the parties.
19. **ENTIRE AGREEMENT:** This Agreement constitutes the entire agreement between the parties hereto relating to the Services and sets forth the rights, duties, and obligations of each party to the other as of this date. Any prior agreements, promises, negotiations, or representations not expressly set forth in this Agreement are of no force and effect. This Agreement may not be amended except by a writing executed by both the Consultant and the CDA and approved by the CDA Commission.
20. **INTERPRETATION:** In this Agreement the singular includes the plural and the plural includes the singular; statutes or regulations are to be construed as including all statutory or regulatory provisions consolidating, amending or replacing the statute or regulation referred to; references to "writing" include printing, typing, lithography, computer software and other means of reproducing word in a tangible visible form; references to articles, sections (or subdivisions of sections), exhibits, annexes, appendices or schedules shall be construed to be in this Agreement unless otherwise indicated; references to agreements, exhibits, annexes, appendices hereto and other contractual instruments shall, unless otherwise indicated, be deemed to include all subsequent amendments and other modifications to such instruments, but only to the extent such amendments and other modifications are not prohibited by this Agreement; words not otherwise defined which have well-known technical or industry meanings, unless the context otherwise requires, are used in accordance with such recognized meanings; and references to persons include their respective permitted successors and assigns, and, in the case of governmental persons, persons succeeding to their respective functions and capacities.
21. **BINDING AGREEMENT:** This agreement shall inure to and be binding on the heirs, executors, administrators, successors, and assigns of the parties hereto.
22. **NO WAIVER:** No waiver of any provisions of this Agreement shall be deemed to constitute a waiver of any other provision of the Agreement, nor shall such waiver constitute a continuing waiver unless otherwise expressly provided herein, nor shall the waiver of any default hereunder be deemed a waiver of any subsequent default hereunder.

23. **LIMITATION ON DELEGATION:** The parties hereto acknowledge and agree that certain powers, rights and duties conferred on or held by CDA are inherently governmental in nature and may not be delegated by contract to the Consultant. Nothing in this Agreement shall be construed as an unlawful delegation of the non-delegable functions and powers of CDA, and the Consultant shall have no obligation to perform any non-delegable function.
24. **LEGAL COUNSEL:** The parties hereto agree they have full and adequate opportunity to consult with legal counsel and that each has had such counsel as it deems appropriate.
25. **OBSERVE ALL LAWS:** The Consultant shall keep fully informed regarding and materially comply with all federal, state and local laws, ordinances and regulations and all orders and decrees of bodies or tribunals having jurisdiction or authority which may affect those engaged or employed in the performance of this Agreement.
26. **CONTROLLING LAW:** This Agreement shall be governed by and construed in accordance with the laws of the State of Oregon, and any disputes hereunder shall be tried in the courts of the State of Oregon.
27. **MEDIATION/ARBITRATION:** Excepting injunctive relief, any dispute, controversy or claim arising out of, in connection with, or relating to, this Agreement or any breach or alleged breach of this Agreement, shall, upon request of any party involved, be submitted to mediation in Umatilla or Morrow County, Oregon. If a settlement cannot be reached through mediation, the parties agree that the dispute will be submitted to and be settled by arbitration in Umatilla or Morrow County, Oregon. Such arbitration shall be in accordance with Uniform Arbitration Act (UAA) as in effect, and as hereinafter amended. Any award rendered shall be final and conclusive upon the parties, and a judgment on such award may be entered in the highest court of the forum, state or federal, having jurisdiction. The expenses of the arbitration shall be borne equally by the parties to the arbitration, provided that each party shall pay for and bear the cost of their respective own experts, evidence and counsel's fees. The parties to either mediation or arbitration recognize that mediation sessions are settlement negotiations and that settlement negotiations are inadmissible in any litigation or arbitration of their dispute, to the extent allowed by law. The parties will not subpoena or otherwise require the mediator to testify or produce records, notes, or work product in any future proceeding beyond mediation. In addition, the parties agree that all information obtained in either the mediation or arbitration process is strictly confidential and further agree that the party not otherwise having such information available to them other than through the mediation or arbitration process shall hold all such information in confidence.
29. **FURTHER ASSURANCES:** Each party shall execute and deliver, at the request of the other party, any further documents or instruments, and shall perform any further acts that may be reasonably required to fully effect the transaction intended by this Agreement.
30. **LIMITATION ON LIABILITY:** IN NO EVENT SHALL EITHER PARTY BE LIABLE FOR INDIRECT, INCIDENTAL, OR CONSEQUENTIAL DAMAGES, INCLUDING LOSS OF PROFITS, LOSS OF USE, OR OTHER ECONOMIC LOSS FOR EVENTS BEYOND THE CONSULTANTS CONTROL; **PROVIDED, HOWEVER, THAT THIS LIMITATION SHALL IN NO WAY DIMINISH CONSULTANTS PROFESSIONAL LIABILITY INSURANCE COVERAGES OTHERWISE AVAILABLE TO CONSULTANT UNDER ANY CONSULTANT PROFESSIONAL LIABILITY POLICY.**

IN WITNESS WHEREOF, the parties hereto have executed this Agreement, this ____ day of _____, 20__.

[CONSULTANT]

COLUMBIA DEVELOPMENT AUTHORITY

By: _____
(Signature)

By: _____
(Signature)

Name: _____
(Print Name)

Name: _____
(Print Name)

Title: _____

Title: _____

Date: _____

Date: _____

Approved As To Form

[CDA Legal Counsel]

EXHIBIT A

WORK ORDER – ENGINEERING SERVICES

This Work Order, including all Exhibits, is issued as part of the Engineering Master Services Agreement Between Owner and Consultant (“Agreement”) dated _____, and the Agreement and its general terms and conditions are incorporated herein. All work performed under this Work Order (including but not limited to payments received for services performed and timelines associated with such services) shall comply with the Agreement.

Work Authorization No: _____

Owner: **Columbia Development Authority**
Two Marine Drive
Boardman, OR 97818

Consultant: _____
Address: _____
Phone: _____
Fax: _____
Contact: _____

Project: _____
Address: _____

Date of Commencement of Services: _____

Not to Exceed Amount for this Work Order: \$ _____

Rates for Services:

Scope of Services:

If the Consultant’s proposal is attached to, incorporated in, or referenced in this Work Order, it is done so solely for the purpose of defining the Scope of Services and does not modify, add or subtract from any term of the Agreement or this Work Order, including but not limited to any financial term or risk allocation.

COLUMBIA DEVELOPMENT AUTHORITY

CONSULTANT

By: _____
Its: _____
Date: _____

By: _____
Its: _____
Date: _____