

AGREEMENT FORM

THIS AGREEMENT is between City of The Dalles, Oregon ("Buyer")
and CORE AND MAIN LP; 1830 CRAIG PARK COURT, ST. LOUIS, MO, 63146 ("Seller").

Buyer and Seller, hereby agree as follows:

1. **GOODS AND SPECIAL SERVICES.**

1.1. Seller shall furnish Goods and Special Services as specified or indicated in the Contract Documents. Goods and Special Services to be furnished are described in Section 01 11 19, Purchase Contracts.

2. **THE PROJECT.**

2.1. The Project for which Goods and Special Services may be the whole or only a part of is generally described as follows: Dog River Pipeline Replacement. This project includes approximately 20,000 linear feet of 30-inch Ductile Iron Pipe Size (DIPS) High Density Polyethylene (HDPE) pipeline, along with appurtenances. A portion of the overall project pipeline materials are being purchased by City in advance of construction to provide to installing contractor.

3. **ENGINEER.**

3.1. The Contract Documents for the Goods and Special Services have been prepared by Jacobs Engineering Group Inc., which is to act as Buyer's representative, assume all duties and responsibilities, and have rights and authority assigned to Engineer in the Contract Documents in connection with Seller's furnishing of Goods and Special Services.

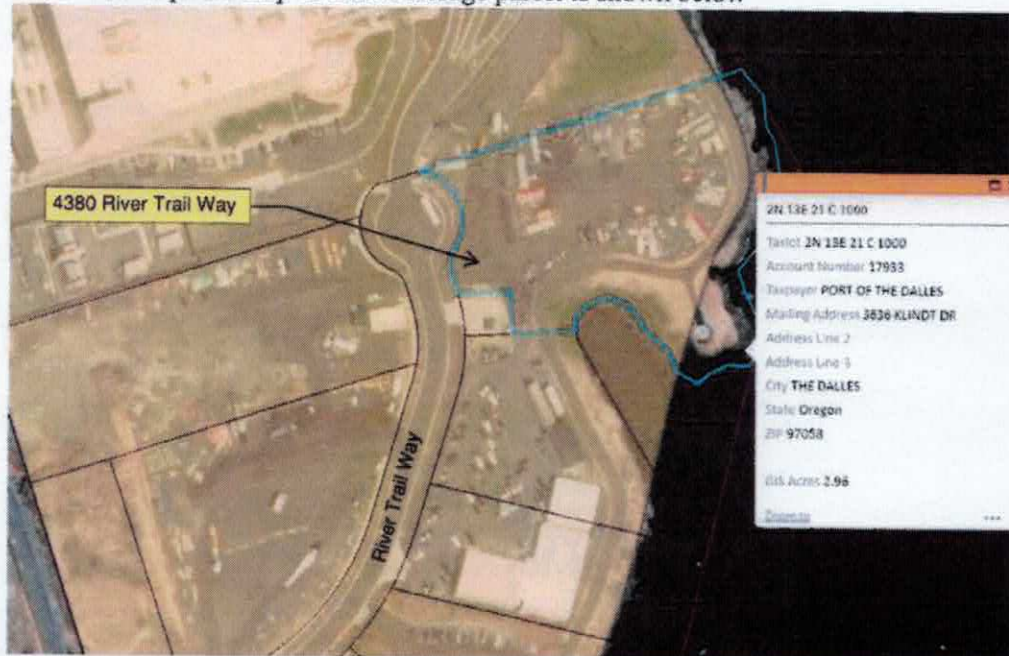
4. **POINT OF DESTINATION.**

4.1. The Point of Destination is designated as:

4.1.1. Port of The Dalles leased storage parcel

4380 River Trail Way, The Dalles, Oregon, 97058

4.1.2. Aerial photo/map of leased storage parcel is shown below



5. CONTRACT TIMES.

5.1. Time of the Essence:

5.1.1. All time limits for Milestones, if any, including submittal of Shop Drawings and Samples, delivery of Goods, and furnishing of Special Services as stated in the Contract Documents are the essence of the Contract.

5.2. Milestones:

5.2.1. Date for Submittal of Shop Drawings and Samples:

5.2.1.1. Seller shall submit Shop Drawings and Samples required by the Contract Documents to Buyer for Engineer's review and approval within 14 days after date when Contract Times commence to run as provided in Paragraph 2.04 of the General Conditions. It is the intent of the parties that:

5.2.1.1.1. Engineer conduct such review and issue its approval, or a denial accompanied by substantive comments regarding information needed to gain approval, within 14 days of Seller's submittal of such Shop Drawings and Samples; and

5.2.1.1.2. Resubmittals be limited whenever possible. If more than one resubmittal is necessary for reasons not the fault and beyond the control of Seller, then Seller shall be entitled to seek appropriate relief under Paragraph 7.02.B of the General Conditions.

5.2.2. Date for Delivery of Goods: Deliver Goods to the Point of Destination and ready for Buyer's receipt of delivery on (or within a period of 15 days prior to) dates as follows:

5.2.2.1. Delivery Requirement A: All fabricated HDPE fittings shall be delivered by June 30, 2022.

5.2.2.2. Delivery Requirement B: A minimum of 5,000 feet of 30-inch DIPS HDPE pipe shall be delivered by June 30, 2022.

5.2.2.3. Delivery Requirement C: A minimum of 8,000 feet of 30-inch DIPS HDPE pipe shall be delivered by July 15, 2022

5.2.2.4. Delivery Requirement D: All 30-inch DIPS HDPE pipe shall be delivered by July 29, 2022.

5.3. Buyer's Final Inspection:

5.3.1. Buyer shall make its final inspection of the Goods pursuant to Paragraph 8.01.C of the General Conditions within 14 days after Buyer's acknowledgement of receipt of delivery of the Goods. Date shall be adjusted equitably if Seller fails to deliver the Goods or furnish Special Services in compliance with the Milestones established in above paragraphs of this Agreement.

5.4. Liquidated Damages: Buyer and Seller recognize that Buyer will suffer financial loss if Goods are not delivered at the Point of Destination and ready for receipt of delivery by Buyer within times specified in Paragraph Date for Delivery of Goods herein, plus any extensions thereof allowed in accordance with Article 7 of the General Conditions. The parties also recognize timely performance of services by others involved in the Project are materially dependent upon Seller's specific compliance with requirements specified in Date for Delivery of Goods. Further, they recognize the delays, expense, and difficulties involved in proving actual loss suffered by Buyer if complete acceptable Goods are not delivered on time. Accordingly, instead of requiring such proof, Buyer and Seller agree that as liquidated damages for delay (but not as a penalty) Seller shall pay Buyer the amounts shown below for each day that expires after the time specified in Paragraph Date for Delivery of Goods, as follows, except that liquidated damages shall not exceed \$5,000 total per day for concurrent failures to achieve delivery requirements.

5.4.1. Delivery Requirement A: \$5,000 per day

5.4.2. Delivery Requirement B: \$5,000 per day

5.4.3. Delivery Requirement C: \$5,000 per day

5.4.4. Delivery Requirement D: \$5,000 per day

6. CONTRACT PRICE.

6.1. Buyer shall pay Seller for furnishing Goods and Special Services in accordance with the Contract Documents in current funds as follows:

6.1.1. Prices stated in Seller's Bid, attached hereto as an exhibit.

7. PAYMENT PROCEDURES.

7.1. Submission and Processing of Payments: Seller shall submit Applications for Payment in accordance with Article 10 of the General Conditions. Applications for Payment will be processed by Engineer in accordance with the General Conditions.

7.2. Progress Payments:

7.2.1. Buyer shall make progress payments on account of Contract Price on the basis of Seller's Application for Payment as follows:

7.2.1.1. Upon receipt of first Application for Payment submitted in accordance with Paragraph 10.01.A.1 of the General Conditions and accompanied by Engineer's recommendation of payment in accordance with Paragraph 10.02.A of the General Conditions, an amount equal to 10 percent of the Contract Price, less such amounts as Engineer may determine in accordance with Paragraph 10.02.A.3 of the General Conditions.

7.2.1.2. Upon receipt of second such Application for Payment accompanied by Engineer's recommendation of payment in accordance with Paragraph 10.01.A.2 of the General Conditions, an amount sufficient to increase total payments to Seller to 90 percent of the Contract Price, less such amounts as Engineer may determine in accordance with Paragraph 10.02.A.3 of the General Conditions.

7.3. Final Payment: Upon receipt of the final Application for Payment accompanied by Engineer's recommendation of payment Buyer shall pay Seller amount recommended by Engineer less sum Buyer is entitled to set off against Engineer's recommendation, including but not limited to liquidated damages.

8. INTEREST.

8.1. All monies not paid when due as provided in Article 10 of the General Conditions shall bear interest at statutory rate.

9. SELLER'S REPRESENTATIONS.

9.1. In order to induce Buyer to enter into this Agreement, Seller makes the following representations:

9.1.1. Seller has examined and carefully studied the Contract Documents and other related data identified in Bidding Documents, as applicable to Seller's obligations to furnish Goods and Special Services.

9.1.2. If required by Bidding Documents to visit Point of Destination and site where the Goods are to be delivered or Special Services will be provided, or if in Seller's judgment, any local condition may affect cost, progress or furnishing of Goods and Special Services, Seller has visited the Point of Destination and site where the Goods are to be delivered or Special Services will be provided and become familiar with and is satisfied as to observable local conditions that may affect cost, progress, or furnishing of Goods and Special Services.

9.1.3. Seller is familiar with and is satisfied as to Laws and Regulations that may affect cost, progress, and furnishing of Goods and Special Services.

9.1.4. Seller has carefully studied, considered, and correlated information known to Seller; information commonly known to sellers of similar goods doing business in the locality of the Point of Destination and the site where the Goods will be delivered or where Special Services will be provided; information and observations obtained from Seller's visits, if any, to the Point of Destination and site where the Goods are to be delivered or Services will be provided; and any reports and drawings identified in the Bidding Documents regarding the Point of Destination and the site where the Goods will be delivered or where Special Services will be provided, with respect to the effect of such information, observations, and documents on the cost, progress, and performance of Seller's obligations under the Contract Documents.

9.1.5. Seller has given Engineer written notice of all conflicts, errors, ambiguities, or discrepancies that Seller has discovered in the Contract Documents, and written resolution thereof by Engineer is acceptable to Seller.

9.1.6. The Contract Documents are generally sufficient to indicate and convey understanding of all terms and conditions for furnishing Goods and Special Services.

10. CONTRACT DOCUMENTS.

10.1. Contents:

10.1.1. The Contract Documents consist of the following:

10.1.1.1. This Agreement (pages 1 to 9, inclusive);

10.1.1.2. General Conditions (pages 1 to 21, inclusive);

10.1.1.3. Supplementary Conditions (pages 1 to 7, inclusive);

10.1.1.4. Specifications as listed in Table of Contents of the Project Manual dated January 2022.

10.1.1.5. Addenda (Numbers 1 to 1, inclusive);

10.1.1.6. Exhibits to this Agreement (enumerated as follows):

10.1.1.6.1. Seller's Bid solely as to prices set forth therein (pages 1 to 13, inclusive);

10.1.1.6.2. Documentation submitted by Seller prior to Notice of Award (pages 1 to 3, inclusive);

10.1.1.7. The following which may be delivered or issued on or after the Effective Date of the Agreement and are not attached hereto:

10.1.1.8. Notice to Proceed (pages to , inclusive);

10.1.1.9. Change Order(s);

10.1.1.10. Work Change Directive(s).

10.2. The documents listed in above are attached to this Agreement (except as expressly noted otherwise above).

10.3. There are no Contract Documents other than those listed above in this Article.

10.4. The Contract Documents may only be amended, or supplemented as provided in Paragraph 3.04 of the General Conditions.

11. MISCELLANEOUS.

11.1. Defined Terms: Terms used in this Agreement will have the meanings indicated in the General Conditions and the Supplementary Conditions.

11.2. Successors and Assigns: Buyer and Seller each binds itself, its partners, successors, assigns, and legal representatives to the other party hereto, its partners, successors, assigns, and legal representatives in respect to all covenants, agreements, and obligations contained in the Contract Documents.

11.3. Severability: Any provision or part of the Contract Documents held to be void or unenforceable under any Law or Regulation shall be deemed stricken, and all remaining provisions shall continue to be valid and binding upon Buyer and Seller. The Contract Documents shall be reformed to replace such stricken provision or part thereof with a valid and enforceable provision that comes as close as possible to expressing the intention of the stricken provision.

11.4. Seller's Certifications:

11.4.1. Seller certifies that it has not engaged in corrupt, fraudulent, collusive, or coercive practices in competing for or in executing the Contract. For the purposes of this paragraph:

11.4.1.1. "corrupt practice" means the offering, giving, receiving, or soliciting of anything of value likely to influence the action of a public official in the bidding process or in the Contract execution;

11.4.1.2. "fraudulent practice" means an intentional misrepresentation of facts made (a) to influence the bidding process or the execution of the Contract to the detriment of Buyer, (b) to establish Bid or Contract prices at artificial non-competitive levels, or (c) to deprive Buyer of the benefits of free and open competition;

11.4.1.3. "collusive practice" means a scheme or arrangement between two or more Bidders, with or without the knowledge of Buyer, a purpose of which is to establish Bid prices at artificial, non-competitive levels; and

11.4.1.4. "coercive practice" means harming or threatening to harm, directly or indirectly, persons or their property to influence their participation in the bidding process or affect the execution of the Contract.

11.5. Limitations:

11.5.1. Buyer and Seller waive against each other, and against the other's officers, directors, members, partners, employees, agents, consultants, and subcontractors, any and all claims for or entitlement to incidental, indirect, or consequential damages arising out of, resulting from, or related to the Contract. Upon assignment the terms of this paragraph shall be binding upon the assignee with respect to Seller and Buyer. The terms of this mutual waiver

do not apply to or limit any claim by either Buyer or Seller against the other based on any of the following: (a) contribution or indemnification, (b) costs, losses, or damages attributable to personal or bodily injury, sickness, disease, or death, or to injury to or destruction of the tangible property of others, (c) intentional or reckless wrongful conduct, or (d) rights conferred by any bond provided by Seller under this Contract.

11.5.2. Upon assignment the terms of this paragraph shall be binding upon both the Buyer and assignee with respect to Seller's liability, and upon Seller with respect to both Buyer's and assignee's liabilities. The terms of this mutual limitation do not apply to or limit any claim by either Buyer or Seller against the other based on any of the following: (a) contribution or indemnification with respect to third-party claims, losses, and damages; (b) costs, losses, or damages attributable to personal or bodily injury, sickness, disease, or death, or to injury to or destruction of the tangible property of others, (c) intentional or reckless wrongful conduct, or (d) rights conferred by any bond provided by Seller under this Contract.

IN WITNESS WHEREOF, Buyer and Seller have signed this Agreement. Counterparts have been delivered to Buyer and Seller. All portions of the Contract Documents have been signed or identified by Buyer and Seller or on their behalf.

This Agreement will be effective on MARCH 9, 2022 (which is the Effective Date of the Agreement).

(date)

CITY OF THE DALLES, OREGON

DOG RIVER REPLACEMENT

Buyer: City of The Dalles, Oregon

Seller: CORE AND MAIN LP

By: *John Kuehn*

By: N/A
(Corporate Seal)

Attest: *Lydia Grossman*

Attest: *Ogonna Hymes*

Address for giving notice:
1215 W. 1st Street, The Dalles, OR 97058

Address for giving notice:
802 Valley Ave NE
Puyallup, WA 98372

(If Buyer is a corporation, attach evidence of authority to sign. If Buyer is a public body, attach evidence of authority to sign and resolution or other documents authorizing execution of Buyer-Seller Agreement.)

Agent for service of process:

(If Seller is a corporation or a partnership, attach evidence of authority to sign.)

Designated Representative:
Name: Dave Anderson

Designated Representative:
Name: Ogonna Hymes

Title: Public Works Director

Title: Regional Director

Address: 1215 W. 1st Street, The Dalles, OR 97058

Address: 560 W. Rincon St, Corona, CA92880

Phone: (541) 506-2008

Phone: 909-574-8662

Fax: _____

Fax: _____

Email: danderson@ci.the-dalles.or.us

Email: ogonna.hymes@coreandmain.com

END OF SECTION