

**SECTION IV  
CONTRACT  
BID NUMBER 190803**

THIS AGREEMENT is made and entered into as of the date last written below, between **PUBLIC UTILITY DISTRICT NO. 1 OF CLALLAM COUNTY** (hereinafter called the "District") and \_\_\_\_\_, located in (CITY, STATE) (hereinafter called the "Contractor").

WITNESSETH: That the District and the Contractor, for and in consideration of the mutual covenants contained herein, agree as follows:

**ARTICLE I -  
CONTRACT DOCUMENTS**

The complete Contract includes the Invitation to Bids, Notice and Instructions to Bidders, the Proposal, Specifications, Contract, and all modifications incorporated in these Documents before their execution. The foregoing documents shall hereinafter be called "Contract Documents." All obligations of the District and the Contractor are fully set forth and described herein.

In the event of a discrepancy between any of the Contract Documents, as above defined, at the request of the Contractor, the District shall give a written interpretation thereof, which interpretation shall govern.

**ARTICLE II -  
CONTRACT COST**

The Contractor agrees to sell and deliver to the District, at the delivery point specified in the Contract Documents, and the District agrees to purchase from the Contractor, the following material (the "Material" or "Materials") in accordance with the Contract Documents and the provisions of the Contractor's Proposal incorporated herein by this reference:

Six (6) three-phase, 15 kV Power Circuit Breakers,  
F.O.B. the District's Carlsborg Warehouse:

PRICE: \$ \_\_\_\_\_

(Do not include Washington State Sales Tax.)

Washington State Sales Tax: 8.5% \$ \_\_\_\_\_

**TOTAL PRICE:** \$ \_\_\_\_\_

Price added for six (6) 304L Stainless Steel, Galvanized Steel, or Marine-Grade Aluminum Enclosures:

PRICE ADDER: \$ \_\_\_\_\_

(Do not include Washington State Sales Tax.)

Washington State Sales Tax: 8.5% \$ \_\_\_\_\_

**TOTAL ADDER PRICE:** \$ \_\_\_\_\_

**TOTAL CONTRACT PRICE:** \$ \_\_\_\_\_

**ARTICLE III -  
INSPECTION AND TESTING**

The Contractor shall keep the District informed of the construction and test schedule of the materials to be furnished such that the District may at any time and at its own discretion make inspection and witness tests of the Materials. The Contractor shall furnish approval documents and final documents, drawings, installation, operation and maintenance instructions and test for the Materials in accordance with the Contract Documents prior to shipment of the Materials to the District. Timely performance by Contractor is contingent upon District's supplying to Contractor, when needed, all required technical information and data, including drawing approvals, and all required commercial documentation. If Contractor suffers delay in performance due to any cause beyond its reasonable control, the time of performance shall be extended a period of time equal to the period of the delay and its consequences. Contractor will give to District notice within a reasonable time after Contractor becomes aware of any such delay.

**ARTICLE IV -  
SHIPMENT AND DELIVERY**

Delivery shall be to the District's Carlsborg Warehouse, 100 Hooker Road, Sequim, WA 98382, on or before August 30, 2019 (the "Delivery Deadline"). Time is of the essence of this Contract, and the District will suffer financial loss if the Material is not provided by the Delivery Deadline. As liquidated damages, and not as a penalty, the District will deduct the following amounts from the bid price for delivery after the Delivery Deadline: first thirty (30) days after Delivery Deadline, \$100 each calendar day; \$200 for each calendar day thereafter. The District and the Contractor agree that the liquidated damages amounts as stated herein are a reasonable estimate of the harm to the District caused by a delay in the delivery of the Material.

The District will provide unloading equipment; therefore, arrangements shall be made for the carrier to deliver on a weekday, not including District holidays, between 8 a.m. and 4 p.m. PDT. The Contractor shall provide a minimum of seventy-two (72) hours' written notice to the District prior to shipment release, and the carrier shall provide a minimum of twenty-four (24) hours' notice prior to delivery to the site.

Upon the shipment of any Material hereunder, the Contractor shall submit to the District a detailed statement of the Materials shipped and scheduled arrival date. The District shall, upon receipt of such Materials, make final payment therefor to the Contractor not later than thirty (30) days after delivery and acceptance of the Materials.

**ARTICLE V -  
REJECTION OF MATERIALS**

The Materials furnished hereunder shall become the property of the District when delivered at the point to which shipment is to be made; provided, however, that the District may reject any such Materials as do not comply with the Specifications for Materials and Warranties of the Contractor and Manufacturers either before or after incorporation of such Materials into the Project. Upon any such rejection, the Contractor shall replace the rejected Materials with Materials complying with the Specifications for Materials and Warranties, f.o.b. at the destination stated in Contractor's proposal for the item(s). No payment shall be made for such rejected Materials until they have been replaced to the satisfaction of the District's Engineer by the Contractor.

**ARTICLE VI -  
WARRANTY**

Notwithstanding acceptance of any Materials by the Engineer of the District, or any certificate which may have been given, or payment which may have been made by the District, if any defective Materials shall be discovered within one (1) year after the date of energization or eighteen (18) months after delivery, whichever comes first, the Contractor shall replace any such defective Materials or make any such repairs as may be required because of such defects, as promptly as possible after notice in writing from the District; or in the event of failure by the Contractor so to do, the District may make such replacement and the cost and the expense thereof shall be paid by and recoverable from the Contractor. Contractor shall not warrant third party repair work.

**CONTRACTOR HEREBY DISCLAIMS ALL WARRANTIES, EXPRESS OR IMPLIED, OF  
MERCHANTABILITY, COURSE OF DEALING AND USAGE OF TRADE.**

The District and its successors are limited to the remedies specified in this Article for a nonconformity in the Materials. The District agrees that these remedies provide the District and its successors with a minimum adequate remedy and are their exclusive remedies for any such nonconformity, whether such remedies are based on contract, warranty, tort (including negligence), strict liability, indemnity, or any other legal theory.

**ARTICLE VII -  
MANUFACTURERS' GUARANTEES**

All manufacturers' guarantees of Materials shall be transferred and assigned to the District upon delivery of any Materials and before payment is made for such Materials. Such guarantees shall be in addition to those required of the Contractor by other provisions of this Contract.

**ARTICLE VIII -  
STANDARDS**

All breaker hardware, fittings, pipe fittings, bolts, etc. shall meet the requirements of the latest applicable ASTM, ANSI, IEEE, NESC, and NEMA Standards.

**ARTICLE IX –  
INDEMNITY**

The Contractor shall defend, hold harmless and indemnify the District from and against any and all claims, suits, and proceedings for infringement of any patent or patents covering the Materials.

**ARTICLE X -  
PERFORMANCE/PAYMENT BOND(S)**

The Contractor shall furnish a bond(s) in the penal sum not less than one hundred percent (100%) of the bid cost of the Material, on an appropriate form, with a surety or sureties acceptable to the District. In the event that the surety or sureties on the bond(s) delivered to the District shall at any time become unsatisfactory to the District, the Contractor agrees to deliver to the District another or additional bond(s).

**ARTICLE XI -  
TERMINATION OF CONTRACT**

In the event that any of the provisions of this Contract are violated by the Contractor, the District may provide to Contractor written notice of its intention to terminate the Contract, which notice shall specify the reasons therefor. Unless within ten (10) days after serving such notice upon the Contractor such violation shall cease and an arrangement for the correction thereof satisfactory to the District be made, the Contract shall, upon the expiration of the said ten (10) days, cease and terminate. In the event of any such termination, the District may purchase the Materials necessary for complete performance of this Contract for the account and at the expense of the Contractor, and the Contractor shall be liable to the District for any excess cost occasioned thereby. District may not cancel or terminate for convenience, or direct the suspension of manufacture, except with Contractor's written consent and then only upon terms that will compensate Contractor for its engineering, fabrication and purchasing charges and any other costs relating to such cancellation, termination or suspension, plus a reasonable amount for profit.

Contractor

By \_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Typed)

Date \_\_\_\_\_

PUBLIC UTILITY DISTRICT NO. 1  
OF CLALLAM COUNTY, WASHINGTON

By \_\_\_\_\_  
Doug Nass, General Manager

Date \_\_\_\_\_

SAMPLE