

**REQUEST FOR QUOTATION  
CONTRACT NUMBER 211004**

THIS AGREEMENT made and entered into as of the date last written below, by and between PUBLIC UTILITY DISTRICT NO. 1 OF CLALLAM COUNTY (hereinafter called the "District") and \_\_\_\_\_, located at \_\_\_\_\_ (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 this Contract; the Request for Quotations as completed and submitted by the Contractor, **Exhibit A** (Prevailing Wage Rates), **Exhibit B** (Contractor Safety Plan), **Exhibit C** (COVID 19 Construction Guidance), and **Exhibit D** (Map) attached thereto; and all modifications incorporated in these documents before their execution. The foregoing documents shall hereinafter be called the "Contract Documents," and all obligations of the District and the Contractor are fully set forth and described in the Contract Documents.

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 -  
PROJECT; CONTRACT COST**

The Contractor will provide labor and materials required to supply and perform clearing/grading and placement/compaction of rock and culverts for utility access roads in the vicinity of Highway 112, milepost 0.08 to milepost 0.5, approximately 2 miles east of Neah Bay, between Snow Creek and Sail River.

The work is detailed on the attached plan map (**Exhibit D**), at the following pole locations:

1. 172360-172260
2. 171460
3. 171462
4. 188560

Typical access road construction/specifications: Supply and install 12' wide road with 8" of compacted ballast at the following locations. Culverts to have a minimum slope of 2% and a minimum cover of 1 foot. Hubs are to be placed at a minimum of 100' intervals by contractor prior to placement of rock. Roads must be traversable by PUD buckets trucks with an axle-to-axle length of 21 feet and 14" of clearance.

1. **172360-172260**: Starting with an approximately ~61ft entrance starting at the South edge Hwy 112 lying to the East side of pole #172360 and extending in a Southerly direction. Access road then turns 90deg East for approximately 635ft ending in a hammer head lying on the West side of pole #172260. Install culvert along highway edge per drawing.
2. **171460**: Approximately 42ftL x 12ftW access road starting from the South edge of Highway 112 extending in a Southerly direction, with approximately 82ft hammerhead. Install culvert along highway edge per drawing.

3. **171462:** Approximately 66ft x 12ft of road starting at the South edge of Highway 112 extending in a Southerly direction, with approximately 82ft hammerhead. Install culvert along highway edge per drawing.
4. **188560:** Approximately 62ft x 12ft of road starting at the South edge of Highway 112 extending in a Southerly direction, with approximately 82ft hammerhead. Install culvert along highway edge per drawing.

Work may commence with Notice to Proceed and must be complete by July 30, 2021.

Flagging and traffic control must done in accordance with Department of Transportation guidelines.

Access roads may be adjacent to and/or under energized power lines. Maintain a minimum of 10 feet clearance from any person or equipment to the power lines. The total contract cost is as follows:

<b>SUBTOTAL (DO NOT INCLUDE WSST)</b>		\$ _____
<b>WSST (8.5%)</b>		\$ _____
<b>TOTAL COST</b>		\$ _____

The specified cost above is using **3" minus rock** obtained from the Makah Tribal Quarry (Contact is Tom Hahn, 360-640-1770)

Starting Date: July 1, 2021

Completion Date: July 30, 2021

**ALTERNATE QUARRY:**

Upon approval by the PUD an alternate quarry and rock may be used. Below is the quarry and type of rock approved to be used.

Quarry: \_\_\_\_\_

Type of Rock: \_\_\_\_\_

Total Project Cost: \$ \_\_\_\_\_

Additional work may be added to the job and paid as per unit or hourly costs. Additional rock provided and installed per yard.

**ARTICLE III -  
INDEMNITY AND HOLD HARMLESS AGREEMENT**

The Contractor agrees to indemnify, defend, and hold harmless the District and its agents and employees from liability, loss, damage, injury, or death arising out of or resulting from performance by the Contractor under the terms of this Contract, injuring or damaging the person or property of any other person or corporation, except as otherwise limited in this paragraph. In the event of concurrent negligence or fault of the Contractor, its agents, employees, or subcontractors and the District, its agents or employees, the Contractor shall indemnify, defend, and hold harmless the District and its agents or employees to the extent that liability, loss, damage, injury, or death is caused by the negligence or fault of the Contractor, its agents, employees, or subcontractors.

It is understood that the Contractor assumes the risk of the condition of the property of the District to be worked upon or about, and Contractor agrees to indemnify the District or its agents and employees against any loss, damage, injury, or death to the person or property of Contractor, its agents, employees, representatives, licensees, or invitees, resulting from any defective condition of said property, while the Contractor is engaged in the performance of this contract.

Contractor also agrees to indemnify, defend, and hold harmless the District from any and all liens, claims, or damage of any kind or nature against or to any property of the District and resulting from or arising out of the performance by the Contractor under the terms of this Contract.

In all claims against the District or its agents and employees, or the Contractor, any subcontractor, anyone directly or indirectly employed by the Contractor or any subcontractor, or anyone for whose acts the Contractor or any subcontractor may be liable, the indemnification obligation under this paragraph shall not be affected by any limitation on the amount or type of damages, compensation, or benefits payable by or for the Contractor or any subcontractor under any worker's compensation act, including Title 51 RCW, any disability benefit acts, or any other employee benefit acts. The Contractor and any subcontractor hereby waive, for themselves and their successors, any right to claim any such limitation as a defense, set off, or other reduction of the District's right to indemnification under this paragraph.

#### **ARTICLE IV - MUTUAL CYBER SECURITY INDEMNIFICATION**

Both parties agree to be responsible for the protection of their own computers, servers, hard drives, information systems, and email accounts from cyber security breaches, including but not limited to malicious software, viruses, hacking, and phishing scams ("Cyber Security Breaches"). Each party shall indemnify the other from any damages, liabilities, or expenses of every kind, including but not limited to reasonable attorney's fees, resulting from or arising out of their own Cyber Security Breaches, including wire fraud attempts directed to the other party resulting from such Cyber Security Breaches.

#### **ARTICLE V - PAYMENTS/RETAINAGE**

Progress payments will be made by the District to the Contractor within 30 days of receipt of a billing statement, provided that the District Representative verifies the accuracy of the billing or corrects it as mutually agreeable to the District and the Contractor. All invoices shall be mailed to Clallam County Public Utility District No. 1, Attention: Contracts Coordinator, P.O. Box 1000, Carlsborg, WA 98324.

Pursuant to RCW 60.28.011, the District will reserve a contract retainage of five percent (5%) of the moneys earned by the Contractor as a trust fund for the protection and payment of (i) the claims of any person arising under this Contract; and (ii) the state with respect to taxes, increases, and penalties imposed pursuant to Titles 50, 51, and 82 RCW which may be due from the Contractor.

#### **ARTICLE VI - PAYMENT OF PREVAILING WAGES**

In accordance with Chapter 39.12 RCW, there shall be paid to all laborers, workers, or mechanics employed on the Project, a wage not less than the prevailing rate of wage as set forth in Chapter 39.12 RCW and **Exhibit A** of the Invitation to Bid, incorporated herein by this reference, for an hour's work in the same trade or occupation in the area of work regardless of any contractual

relationship which may exist, or be alleged to exist, between the Contractor and any laborers, workers, mechanics, or subcontractors.

Before payment is made of any sum or sums due hereunder, the Contractor and each and every subcontractor shall submit to the District a "Statement of Intent to Pay Prevailing Wages," which statement shall include:

- 1) The Contractor's registration certificate number; and
- 2) The prevailing rate of wage for each classification of workers entitled to prevailing wages under RCW 39.12.020 and the estimated number of workers in each classification.

Each Statement of Intent to Pay Prevailing Wages must be approved by the Industrial Statistician of the Department of Labor and Industries before it is submitted to the District.

Unless otherwise authorized by the Department of Labor and Industries, each voucher claim submitted by the Contractor for payment shall state that the prevailing wages have been paid in accordance with the prefiled Statement or Statements of Intent to Pay Prevailing Wages on file. Following the final acceptance of the Project, the Contractor and each and every subcontractor shall submit to the District an "Affidavit of Wages Paid" before the funds retained according to the provisions of RCW 60.28.010 are released to the Contractor. Each affidavit of wages paid must be certified by the Industrial Statistician of the Department of Labor and Industries before it is submitted to the District.

## **ARTICLE VII - INSURANCE**

The Contractor shall, at its own expense, carry in an insurance company or companies and under policies of insurance, acceptable to and approved by the District, the following insurance with limits not less than shown on the respective items:

a. Workers' Compensation

To the limit required by the laws of the State of Washington.

b. Comprehensive General Liability and Property Damage Insurance

This insurance shall include coverage for contractor's contingency liability Insurance covering subcontractor's liability, contractual liability insurance, completed operations liability insurance, and automobile liability insurance covering owned, non-owned, and hired units.

**Minimum Limits:**

Bodily Injury	\$1,000,000 each person
Property Damage	\$1,000,000 each occurrence
	\$2,000,000 aggregate
Umbrella Coverage	\$2,000,000

- c. All policies of insurance providing coverages required under paragraph "b" above shall name Public Utility District No. 1 of Clallam County as additional named insured with a cross liability clause and provide that no cancellation or material changes in the policies

shall become effective unless thirty (30) days prior notice of such cancellation or change is furnished to the District by registered mail.

Prior to commencement of any work hereunder, the Contractor shall provide the District with evidence of Workers' Compensation insurance required under "a" above, and with a Certificate of Insurance showing the District named as additional insured as required under "b" above.

**ARTICLE VIII -  
PERFORMANCE AND PAYMENT BOND(S)**

The Contractor shall furnish performance and payment bond(s) in the penal sum not less than one hundred percent (100%) of the bid cost of the Project, on an appropriate form, with a surety or sureties acceptable to the District. When the performance and payment bond(s) requirement has been met, the Contractor will be given a notice to proceed. In the event that the surety or sureties on the performance and payment bond(s) delivered to the District shall at any time become unsatisfactory to the District, the Contractor shall, upon request by the District, deliver to the District another or an additional bond(s).

**ARTICLE IX -  
DEFAULT**

If, in the sole judgment of the District, the Contractor, in connection with any work performed hereunder, fails in any respect to carry on the work with promptness and diligence or violates any of the terms or conditions of this Contract, such refusal, failure, or violation shall constitute a default by the Contractor under this Contract and, in such event, the District may give the Contractor twenty-four (24) hours notice to remedy such default. Upon the failure of the Contractor to remedy such default within such time, the District will be relieved of any further obligations hereunder and in addition to all other rights and remedies in law or equity may cancel this Contract without any obligation or liability on the District whatsoever except as to payment for work already performed by the Contractor.

**ARTICLE X –  
DISTRICT'S RIGHT TO AUDIT**

The District shall have the right to audit all Contractor records pertaining to the work performed hereunder, during, and up to one year after completion of, the work. Should the Contractor refuse to allow the District to audit its records, the District may terminate the Contract and deny the opportunity to bid on future District projects.

**ARTICLE XI –  
DEBARMENT, SUSPENSION AND OTHER**

Contractor certifies to the best of its knowledge and belief that it and its principals:

- Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency;
- Have not within a three year period preceding the award of this Contract been convicted of or had a civil judgment rendered against it for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or local) transaction or a contract under a public transaction; violation of Federal or State antitrust statutes; or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statement, or receiving stolen property;

- Are not presently indicted for otherwise criminally or civilly charged by a government entity (Federal State, or local) with commission of any of the offenses enumerated in any paragraphs within this Article X; and
- Have not within a three-year period preceding the award of this Contract had one or more public transactions (Federal, State, or local) terminated for cause or default.

## **ARTICLE XII – CONTRACTOR OR THIRD-PARTY WORKER RETIREMENT STATUS VERIFICATION**

The parties hereto acknowledge that under Title 41 of the Revised Code of Washington, the District is obligated to report to the Washington Department of Retirement Systems any retirees in its employ, including contractors and subcontractors and their workers, who retired from certain Washington State retirement systems. Failure to report could result in a financial liability to the District. Accordingly, the Contractor agrees to and shall report to the District the retirement status of all of its workers, subcontractors, and subcontractors' workers who will be performing services for the District under this Agreement. The Contractor shall be responsible to pay any financial liability imposed upon the District by the Washington Department of Retirement Systems for pension overpayments resulting from the Contractor's failure to properly report to the District such retirement status. In the alternative, the Contractor may provide to the District the Social Security numbers of all its workers, subcontractors, and subcontractors' workers who will be performing services for the District under this Agreement, and the District shall undertake to verify the retirement status of those workers. In such event, the Contractor shall be responsible to pay any financial liability imposed upon the District by the Washington Department of Retirement Systems for pension overpayments resulting from the Contractor's failure to provide proper Social Security numbers for each such worker.

## **ARTICLE XIII – COMPLETION DATE; LIQUIDATED DAMAGES**

Time is of the essence of this Contract. Construction of the Project shall be completed on or before FRIDAY, JULY 30, 2021. As liquidated damages, and not as a penalty, the District will deduct \$200.00 from the contract price for each calendar day after July 30, 2021, that Project completion is delayed.

## **ARTICLE XIV – DISPUTE RESOLUTION**

Any dispute that arises out of the interpretation, performance, enforcement, or any other aspect of this Contract shall be resolved by submitting the same to binding arbitration, which shall proceed according to the Washington arbitration act, Chapter 7.04A RCW, and shall be conducted within Clallam County, Washington; provided, however, that each party shall select a nominating person within ten (10) days of notice of the dispute from one party to the other. The two nominating persons shall then meet and promptly select the arbitrator. If, within thirty (30) days after receipt of the notice of the dispute, the nominating persons are unable to select an arbitrator, the arbitrator shall be selected by a Superior Court Judge of Clallam County. The parties shall require a written decision by the arbitrator as a condition of the selection of the arbitrator. The prevailing party as determined by the arbitrator shall be entitled to its reasonable attorney fees and costs associated with the arbitration. The parties shall share equally the arbitrator's fee and costs. Venue for any action brought on the arbitration award, including enforcement of such award, shall be in the Superior Court of Clallam County, and such action shall be governed by application of the laws of the state of Washington. The prevailing party in any such action on the arbitration award shall be entitled to its reasonable attorney fees and costs associated with such action. This Agreement shall be governed by and construed and enforced in accordance with the laws of the state of Washington without application of the principals of conflicts of laws.

**(CONTRACTOR)**

Dated \_\_\_\_\_

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

\_\_\_\_\_  
(Written)

Title \_\_\_\_\_

**PUBLIC UTILITY DISTRICT NO. 1  
OF CLALLAM COUNTY, WASHINGTON**

Dated \_\_\_\_\_

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

\_\_\_\_\_  
(Written)

Title \_\_\_\_\_

SAMPLE