



Emergency Communications of Southern Oregon  
Jackson County, Oregon  
Invitation to Bid – Communications Site Upgrades

Title: Johns Peak, Shady Cove, Flounce Rock, Table Mtn and Tallowbox Communication Site Upgrades

ITB Number: 04132023

Bids Due	<p>Bid due date and time: Bids are due no later than <b>12:00 PM</b>, Pacific Time on <b>June 1, 2023</b>. Bids submitted after the due date and time will be rejected.</p> <p>First tier subcontractor disclosure: First tier subcontractors shall be disclosed to the Agency no later than <b>5:00 PM</b> Pacific Time on <b>June 1, 2023</b></p>
Contact	<p>Direct questions to: ITB Contact: Jody Hathaway Email: jody.hathaway@ecso911.com Phone: 541-774-5062</p>
Requests	<p>All clarifications, change, questions, and substitutions requests as well as any solicitation protests shall be submitted no later than: <b>April 24, 2023</b></p>
Bidder Qualification	<p>Bids will be subject to a technical evaluation to ensure bidders have appropriate and adequate experience required to perform the requested work. The technical evaluation criteria are located in the project specific scope of work.</p>
Prevailing Wage	<p>This project is a Public Work and subject to ORS 279C.800 – ORS 279C.870 including but not limited to: payment of prevailing wages, reporting and public works bond.</p>
Pre-Bid Conference	<p>Mandatory Pre-Bid Meeting Conference call on <b>April 20, 2023 at 10:00 a.m.</b> via Zoom. Join Zoom Meeting: Meeting ID: 890 9364 5852 Passcode: 111686</p>
Submit bids to	<p>Emergency Communications of Southern Oregon Mailing Address 400 Pech Road, Central Point, OR 97502 Physical Address ECSO 400 Pech Road, Central Point, OR 97502</p>
Public Bid Opening	<p>A public bid opening will be held on <b>June 1, 2023 at 1:00 p.m.</b></p>



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Emergency Communication of Southern Oregon  
Invitation to Bid No. 04132023

- Exhibit 2: Insurance Requirements;
- Exhibit 3: Certification Statement for Corporation or Independent Contractor;
- Exhibit 4: Worker's Compensation Exemption Certificate;
- Exhibit 5: Hazardous Materials Requirements;
- Exhibit 6: Payment and Performance Bonds;
- Exhibit 7: Invitation to Bid and Contractor's Bid



### **Section B – Definitions**

1. Invitation to Bid or ITB – All documents attached or incorporated by reference and any addenda used for soliciting bid
2. Agency – Emergency Communications of Southern Oregon (ECSO), organization that intends to obtain Contract for Public Improvement
3. Offeror – Same as Bidder, individual, organization, or representative of an organization that submits a bid in response to an ITB
4. Bid – Offeror’s written offer submitted in response to the ITB, including all necessary attachments and information required. Bid also means Offer.
5. Closing – Date and time defined in the ITB for Bid submission. Bids may not be submitted, modified, or withdrawn by the bidder after this date and time
6. Opening – day and time set to reach the Bid submittals
7. Amendment – means addition or deletion to, a material change, or clarification of, the ITB. Amendment also means Solicitations Amendments, Addendum, and Addenda. Any amendments will be labeled as such and shall be made available to all interested Offerors in accordance with ORS 125-249-0250(2).
8. ORS – Oregon Revised Statutes



### Section C – General Bidding Information

1. Project summary– Flounce Rock, 2555 Ulrich Road, Prospect, OR. (new shelter, existing tower, new outdoor generator and equipment,), John’s Peak, 2563 John’s Peak Road, Central Point, OR. (new tower and new outdoor generator), Shady Cove, 275 Citadel Road, Trail, OR., (new shelter, existing tower and new outdoor generator) Table Mtn. 7975 Hyatt Prairie Road, Ashland, OR. (new shelter with indoor generator room, existing tower), and Tallowbox, Thompson Creek Road, Medford, OR (new shelter with indoor generator room, existing tower) Communications Site Upgrade Construction.
2. Points of Contact
  - a. The single point of contact for this ITB for all questions, forms, bidding process, change, clarifications, award process, protests, and/or any other issues that may arise is defined in the table located on page one of this ITB.
  - b. The single point of contact for any materials substitution approval or technical is clarification is in the table located on page one of this ITB.
3. Engineering and Consultant Information
  - a. The Agency has contracted the following services for this project and will provide the project required documents
    - i. Engineering
    - ii. Permitting
    - iii. Construction Oversight
4. Invitation to Bid Documents
  - a. ITB
  - b. Attachments
  - c. Hard Copies, no hard copies of the ITB will be provided
  - d. Amendments
5. ITB and Plans Holder list
  - a. A ITB and Plans holder list will not be maintained.
  - b. If a Mandatory pre-bid meeting is held, the attendee list will be included in the post pre-bid questions amendment.
6. Trade Secrets
  - a. Any information Offeror Submits in response to the ITB that the Offeror considers a trade secret or confidential information that the Offeror wants to protect from public disclosure must be clearly labeled as such per ORS 192.501 (2)
  - b. Offeror’s price is generally not considered trade secret.
  - c. Further information already in the public domain is not considered trade secret.
7. Solicitation Rules and Laws
  - a. Oregon Law and ECSO Contracting and Procurement Rules govern this ITB and the resulting Contract. The ITB and resulting Contract may be subject to other laws and rules, Offerors should obtain and become acquainted with the applicable provisions of the laws and rules reference in this section.
  - b. Oregon Administrative Rules (OAR) chapter 137, Divisions 046 and 049. These rules are available online at <http://arcweb.sos.state.or.us/banners/rules.htm>



- c. Oregon Revised Statutes (ORS) chapters 279A and 279C. The ORS can be obtained from Legislative Counsel Committee, S101 State Capitol, Salem OR 97310, 503-378-8146 or at <http://www.leg.state.or.us/ors/home.html>
  - d. This ITB and the resulting Contract are subject to the current revision of the State of Oregon General Conditions for Public Improvement Contracts.
  - e. ECSO Contracting and Procurement Rules can be viewed at: <https://www.ECSO911.com/general/page/public-contracting-rules>
8. Substitutions
- a. Any brand name listed in the design, scope, or specifications without an “or equal” require substitutions to be pre-approve from the Agency for use.
  - b. Requests for substitutions shall include documentation to show that the suggested substitution meets the minimum requirements for quality, utility, durability, function, and purpose.
  - c. Substitutions approval must be in writing from the Agency’s authorized representative
  - d. The Agency representative shall determine, in its sole discretion, whether a product offered is equal.
  - e. Any substitutions proposed during the bidding process must request approval prior to the last day for questions to be considered for approval for the bid.
9. Requests for clarification and Solicitation protests
- a. Requests for clarification shall be submitted by the date defined in the ITB schedule.
  - b. All requests for clarification shall be submitted in writing and will be responded to all potential Offerors that participated in the mandatory pre-bid meeting
  - c. Any protest of contractual terms, plans, or specifications must be submitted by the date defined in the ITB schedule and in writing. The protest shall include the legal and factual grounds for the protest, a description of the resulting prejudice to the Offeror if the protest is not granted, and any proposed changes.
  - d. Any requests for bid time extension shall be submitted by the request for clarification deadline defined in the ITB Schedule.
  - e. Only formal responses, in writing, distributed to all Offerors can affect the provisions of the ITB. Changes to the contract terms, plans, specifications, scope, and procurement requirement can only be changed via a solicitation amendment issued by the Agency.
10. Offer Format
- a. All offers shall be in writing and sealed. Sealed bids shall state the ITB number and project on the exterior of the sealed envelope.
11. Offer withdraw
- a. Offerors may withdraw offers by submitting a notice to the Agency prior to the ITB closing date. Withdraw notices must be on the Offeror’s letterhead and be signed by the authorized representative.
12. Closing, Opening, and First Tier Submittal
- a. Closing – Offers must be time and date stamped prior to the closing date and time. Offers received after the closing date and time will not be accepted.
  - b. Opening – All offers will be publicly opened on the date and time specified in the ITB at the ECSO office. Only the name of the Offeror(s) and the items to be considered for award purposes will be read at the opening. Attendance to the opening is optional. Award decisions will not be made at the opening.
  - c. First Tier Submittal – First tier subcontractor submittals are due to the Agency within two working hours after the Closing in writing and in accordance with ORS 279C.370.



13. Preliminary bid Results

- a. Prior to the intent to award, the preliminary bid results will be available by request from the Agency Buyer.

14. Time for Offer Acceptance

- a. An Offeror's Offer is a firm Offer, irrevocable, valid, and bidding offer for not less than sixty (60) days from the close date.

15. Method of Award

- a. Bid award will be on a project specific contract.

16. Offer Evaluation Criteria

- a. All offers will be evaluated to be considered responsive based on the go/no-go criteria defined in the ITB Scope of Work. The Agency may request information in addition to that already required in the ITB, in its sole discretion, it deems it necessary to fully evaluate the offer.
- b. All offers are subject to OAR 137-049-0390. The Agency will review Offers prior to award to ensure applicable standards are met. The Agency may request information in addition to that already required in the ITB, in its sole discretion, it deems it necessary to fully evaluate the offer.

17. Processing of Bids

- a. Neither the release of a Bid Security, nor acknowledgement that the selection process is complete shall represent that the Agency has accepted an Offer.

18. ITB Withdraw and Rejection

- a. At the sole discretion of the Agency the ITB may be withdrawn at any stage during the bidding or review period.
- b. All Offers may be rejected by the Agency for good cause upon finding that it is in the best interest of the Agency or public interest.
- c. Particular Offers may be rejected by the Agency for any reason listed under OAR 137-049-0440

19. Intent to award

- a. Upon completion of detailed review of all bids received the Agency at its discretion will issue a intent to award letter to the all Offerors who submitted offers be publicly available upon request.

20. Intent to award protests

- a. Adversely affected or aggrieved Offerors have seven (7) calendars days from the intent to award announcement to file in writing to the Agency a protest to the intent to award. Protests must specify the grounds upon which the protest is based.
- b. In order to be adversely affected or aggrieved Offeror, the Offeror must claim to be eligible for award of the contract as the lowest responsible and responsive Offeror and clearly identify how other lower Offerors are ineligible to receive the Contract.
- c. The Agency will respond in writing to intent to award protests submitted by Offerors that have met all the criteria of the ITB. Protests will be reviewed internally by the Agency for validity and may result in delay of award of Contract for re-review of the Offers.

21. Award

- a. Following the seven (7) day intent to award protest period and resolution to any protests, the Agency will proceed with the final Contract award.
- b. If only one Offer is received the Agency may dispense with the intent to award period and proceed directly to Contract.

22. Commencement of Work

- a. Offeror shall not commence work until the Agency issues the notice to proceed in writing.



23. Award bid files

- a. Contract award files can be requested from the Agency office

24. Information to be submitted by the Successful Offeror

- a. The following shall be provided to the Agency within seven (7) days of Contract award.
  - i. Proof of insurance
  - ii. Performance Bond
  - iii. Payment Bond





### **SECTION D BID SECURITY REQUIREMENTS**

Each Offer shall be accompanied by a certified or cashier's check, irrevocable letter of credit (Bank), or Bid Bond, payable to ECSO in an amount equal to ten percent (10%) of the total amount of the Offer.

Bid Security shall be furnished to Columbia 9.1.1 as security against the failure of the undersigned to comply with all requirements within the time frames established after notification of award.

If the undersigned fails to (1) execute the Contract, (2) furnish a Performance Bond and a Payment Bond, or (3) furnish certificates of insurance within fourteen (14) calendar days of the written notification of intent to award a Contract, then the Agency may cash the check, draw under the letter of credit, or otherwise collect under the Bid Security.

The Bid Bond form is Exhibit 2.

### **SECTION E – OREGON PREVAILING WAGE RATES (BOLI REQUIREMENTS)**

The Contractor and all subcontractors shall comply with the provisions of set forth by the State of Oregon Bureau of Labor and Industries for prevailing wages. This ITB and the resulting Contract are subject to current prevailing wage rates. The work will take place in Jackson County. The prevailing wage rates in effect when this ITB was advertised, including the October 1, 2022 amendments, may be found at the following link and are incorporated by reference: <https://www.oregon.gov/boli/employers/Pages/prevailing-wage-rates.aspx>.

The Contractor and all subcontractors must have a BOLI public works bond filed with the Construction Contractors Board before starting work on the project, unless exempt.

### **SECTION F – FIRST-TIER SUBCONTRACTOR DISCLOSURE INSTRUCTIONS AND FORM**

(1) Pursuant to ORS 279C.370 and OAR 137-049-0360, Offerors are required to disclose information about certain first-tier subcontractors when the Agency estimates the Contract value for a Public Improvement to be greater than \$100,000. Specifically, when the Contract amount of a first-tier subcontractor furnishing labor, or labor and materials, would be greater than or equal to: (i) 5% of the project Bid, but at least \$15,000, or (ii) \$350,000 regardless of the percentage, the Bidder must disclose the following information about that subcontract in its Bid submission or within two (2) working hours after Closing:

- (a) The subcontractor's name,
- (b) Dollar value and,
- (c) The category of work that the subcontractor would be performing.



If the Offeror will not be using any subcontractors that are subject to the above disclosure requirements, the Offeror is required to indicate "NONE" on the Disclosure Form.

THE AGENCY MUST REJECT AN OFFER IF THE OFFEROR FAILS TO SUBMIT THE DISCLOSURE FORM WITH THIS INFORMATION BY THE STATED DEADLINE.

(2) An Offeror shall submit the disclosure form required by OAR 137-049-0360 either in its Offer submission or within two (2) working hours after Closing.

Compliance with the disclosure and submittal requirements is a matter of responsiveness. Offers which are submitted by Closing, but for which the disclosure submittal has not been made by the specified deadline, are not responsive and shall not be considered for Contract award.

(3) The Agency shall obtain, and make available for public inspection, the disclosure forms required by OAR 137-049-0360. The Agency shall also provide copies of disclosure forms to the Bureau of Labor and Industries as required by ORS 279C.835. The Agency is not required to determine the accuracy or completeness of the information submitted. Substitution of affected first-tier subcontractors shall be made only in accordance with ORS 279C.585.



**FIRST-TIER SUBCONTRACTOR DISCLOSURE FORM**

**(ORS 279C.370)**

Bids which are submitted by Bid Closing, but for which a required disclosure submittal has not been made by the specified Disclosure Deadline, are not responsive and shall not be considered for Contract award.

**AGENCY SUPPLIED INFORMATION:**

PROJECT NAME: Flounce Rock, John’s Peak, Shady Cove, Table Mtn., and Tallowbox

BID #: 04132023

BID CLOSING: Date: June 1, 2023 Time: 12:00 PM

REQUIRED DISCLOSURE DEADLINE: Date: June 1, 2023 Time: 5:00 PM

Deliver Form To (Agency): Emergency Communications of Southern Oregon

**INSTRUCTIONS:**

This form must be submitted to the Agency within two (2) working hours after the advertised bid closing time. Submittal is to the same location listed in the ITB.

List below the name of each subcontractor that will be furnishing labor or will be furnishing labor and materials and that is required to be disclosed, the category of work that the subcontractor will be performing and the dollar value of the subcontract. Enter “NONE” if there are no subcontractors that need to be disclosed. (ATTACH ADDITIONAL SHEETS IF NEEDED.)

**BIDDER DISCLOSURE:**

	Subcontractor Name	Category of Work	Dollar Value
1			
2			
3			
4			

The above listed first-tier subcontractor(s) are providing labor, or labor and material, with a Dollar Value equal to or greater than:

a) 5% of the total Contract Price, but at least \$15,000. [If the Dollar Value is less than \$15,000 do not list the subcontractor above.]

or

b) \$350,000 regardless of the percentage of the total Contract Price.

Form Submitted By (Bidder Name): \_\_\_\_\_

Contact Name: \_\_\_\_\_ Phone #: \_\_\_\_\_



**SECTION G – CONSTRUCTION CONTRACTORS BOARD (CCB) REQUIREMENTS**

Offerors shall be licensed with the State of Oregon Construction Contractors Board (CCB) prior to bidding on Public Improvement Contract(s). FAILURE TO COMPLY WITH THIS REQUIREMENT SHALL RESULT IN BID REJECTION.

All Subcontractors participating in the project shall be similarly registered with the Construction Contractors Board at the time they propose to engage in subcontract work. The CCB registration requirements apply to all public works contracts unless superseded by federal law.

Offerors SHALL provide their Construction Contractors Board (ORS 701.055) registration number below:

CONSTRUCTION CONTRACTORS BOARD REGISTRATION NO.: \_\_\_\_\_

EXPIRATION DATE OF CCB NO.: \_\_\_\_\_



### **SECTION H – BID AMENDMENTS AND INQUIRY DETAILS**

The Agency reserves the right to make changes to the Invitation to Bid and the resulting Contract, by written Solicitation Amendment (Addendum), prior to the closing time and date. Solicitation Amendment will be submitted in writing to the bidders who attend the mandatory pre-bid meeting. The Amendment will not be publicly posted. Offerors will be requested to acknowledge receipt of the Amendment. The Agency is not responsible for an Offerors failure to receive and acknowledge receipt notice of the Amendment. Solicitation Amendments shall only be issued by the Agency and upon issuance are incorporated into the Invitation to Bid or the resulting Contract. If required by the Solicitation Amendment, Bidders shall sign and return the Solicitation Amendment prior to the Closing time/date.

A minimum of two Addendums will be issued or identified by the Agency as not needed. These will occur at the following times:

1. Post pre-bid conference to address any questions recorded during the conference
2. After the last day for Requests



**SECTION I – RESPONSIBILITY INQUIRY / CONTACTOR REFERENCES**

The Agency reserves the right, pursuant to OAR 137-049-0390 to investigate and evaluate, at any time prior to award and execution of the Contract, the apparent successful Offeror's responsibility to perform the Contract. Submission of a signed Offer shall constitute approval for the Agency to obtain any information the Agency deems necessary to conduct the evaluation. The Agency shall notify the apparent successful Offeror, in writing, of any other documentation required, which may include, but is not limited to, recent profit-and-loss history; current balance statements; assets-to-liabilities ratio, including number and amount of secured versus unsecured creditor claims; availability of short and long-term financing; bonding capacity; credit information; material; equipment; facility and personnel information; performance record of Contract performance; etc. Failure to promptly provide this information shall result in Offer rejection. The Agency may postpone the award of the Contract after announcement of the apparent successful Offeror in order to complete its investigation and evaluation. Failure of the apparent successful Offeror to demonstrate Responsibility, as required under OAR 137-049-0390, shall render the Offeror non-responsible and shall constitute grounds for Offer rejection, as required under OAR 137-049-0440.

**1. OFFERORS INFORMATION**

Business Name: \_\_\_\_\_  
Agency(s) Name: \_\_\_\_\_  
Business Address: \_\_\_\_\_  
Telephone Number: \_\_\_\_\_  
Email Address: \_\_\_\_\_

**2. OFFEROR REFERENCES FOR COMPARABLE PROJECTS IN SIZE AND SCOPE**

Offeror shall provide a list of three different project references with their Offer that can be contacted regarding the quality of workmanship and service that the Offeror provided on projects of comparable size and scope. Offeror shall submit this information on their form. Comparable project information shall at a minimum include the following sections:

- Name of project
- Project location
- Project description
- Project completion date
- Firm name for contact person
- Contact person
- Contact phone number
- Contact e-mail address
- Contract value
- Contract change order value



**SECTION J – CONTRACTOR SUPPLIED MATERIALS**

Offeror shall provide new, not previously used, materials for the Contractor supplied materials. Where economically feasible and able to meet or exceed the performance requirements set forth in this contract recyclable materials shall be used.



**SECTION K – RESIDENCY INFORMATION**

OAR 137-049-0390 states " In determining the lowest Responsive Bid, the Contracting Agency shall, in accordance with [OAR 137-046-0310 \(Reciprocal Preferences\)](#), add a percentage increase to the Bid of a nonresident Bidder equal to the percentage, if any, of the preference given to that Bidder in the state in which the Bidder resides."

"Resident Bidder" means a Bidder that has paid unemployment taxes or income taxes in this state during the 12 calendar months immediately preceding submission of the Bid, has a business address in this State, and has stated in the Bid whether the Bidder is a "resident Bidder". (OAR 137-046-0110)

"Non-resident Bidder" means a Bidder who is not a "resident Bidder" as defined above. (OAR 137-046-0110)

Check one: Bidder is *a*

	Resident Bidder	If Resident, Enter Oregon business Address	
	Non-Resident Bidder	If non- resident, Enter State of Residency	

**FOREIGN CONTRACTOR:** If the amount of the Contract exceeds ten thousand dollars (\$10,000), and if Contractor is not domiciled in or registered to do business in the State, Contractor shall promptly provide to the Oregon Department of Revenue all information required by that Department relative to the Contract. The State shall be entitled to withhold final payment under the Contract until Contractor has met this requirement.





### **SECTION L - CERTIFICATION OF COMPLIANCE WITH TAX LAWS**

By my signature in Section O of this Contract, I, hereby attest or affirm under penalty of perjury: That I am authorized to act on behalf of the Contractor in this matter, that I have authority and knowledge regarding the payment of taxes, and that Contractor is, to the best of my knowledge, not in violation of any Oregon Tax Laws.

### **SECTION M - CERTIFICATION OF DRUG-TESTING LAW REQUIREMENTS**

(1) Pursuant to OAR 137-049-0200, the Offeror certifies by its signature on these solicitation document forms that it has a Qualifying Drug Testing Program in place for its employees that includes, at a minimum, the following:

- (a) A written employee drug testing policy, (b) Required drug testing for all new Subject Employees or, alternatively, required testing of all Subject Employees every 12 months on a random selection basis, and
- (c) Required testing of a Subject Employee when the Offeror has reasonable cause to believe the Subject Employee is under the influence of drugs.

(2) A drug testing program that meets the above requirements will be deemed a "Qualifying Employee Drug Testing Program." An employee is a "Subject Employee" only if that employee will be working on the Project job site.

(3) If awarded a Public Improvement Contract as a result of this solicitation, Offeror agrees that at the time of Contract execution it shall represent and warrant to the Agency that its Qualifying Employee Drug Testing Program is in place and will continue in full force and effect for the duration of the Public Improvement Contract. The Agency's performance obligation (which includes, without limitation, the Agency's obligation to make payment) shall be contingent on Contractor's compliance with this representation and warranty. (4) If awarded a Public Improvement Contract as a result of this solicitation, Offeror also agrees that at the time of Contract execution, and as a condition to Agency's performance obligation (which includes, without limitation, the Agency's obligation to make payment), it shall require each Subcontractor providing labor for the Project to:

(a) Demonstrate to the Contractor that it has a Qualifying Employee Drug Testing Program for the Subcontractor's Subject Employees, and represent and warrant to the Contractor that the Qualifying Employee Drug Testing Program is in place at the time of subcontract execution and will continue in full force and effect for the duration of the subcontract; or

(b) Require that the Subcontractor's Subject Employees participate in the Contractor's Qualifying Employee Drug Testing Program for the duration of the subcontract.



### **SECTION M - DRUG-TESTING REQUIREMENTS**

(1) The Offeror certifies by its signature on these solicitation document forms that it has a Qualifying Drug Testing Program in place for its employees that includes, at a minimum, the following:

(a) A written employee drug testing policy, (b) Required drug testing for all new Subject Employees or, alternatively, required testing of all Subject Employees every 12 months on a random selection basis, and (c) Required testing of a Subject Employee when the Offeror has reasonable cause to believe the Subject Employee is under the influence of drugs.

(2) A drug testing program that meets the above requirements will be deemed a "Qualifying Employee Drug Testing Program." An employee is a "Subject Employee" only if that employee will be working on the Project job site.

(3) If awarded a Public Improvement Contract as a result of this solicitation, Offeror agrees that at the time of Contract execution it shall represent and warrant to the Agency that its Qualifying Employee Drug Testing Program is in place and will continue in full force and effect for the duration of the Public Improvement Contract. The Agency's performance obligation (which includes, without limitation, the Agency's obligation to make payment) shall be contingent on Contractor's compliance with this representation and warranty.

(4) If awarded a Public Improvement Contract as a result of this solicitation, Offeror also agrees that at the time of Contract execution, and as a condition to Agency's performance obligation (which includes, without limitation, the Agency's obligation to make payment), it shall require each Subcontractor providing labor for the Project to:

(a) Demonstrate to the Contractor that it has a Qualifying Employee Drug Testing Program for the Subcontractor's Subject Employees, and represent and warrant to the Contractor that the Qualifying Employee Drug Testing Program is in place at the time of subcontract execution and will continue in full force and effect for the duration of the subcontract; or (b) Require that the Subcontractor's Subject Employees participate in the Contractor's Qualifying Employee Drug Testing Program for the duration of the subcontract.

### **SECTION N - CERTIFICATION OF COMPLIANCE WITH NON-DISCRIMINATION LAWS**

By my signature in Section O of this Contract, I hereby attest or affirm under penalty of perjury: that I am authorized to act on behalf of Contractor in this matter, and to the best of my knowledge the Contractor has not discriminated against minority, women or emerging small business enterprises in obtaining any required subcontracts, and that the Contractor is not in violation of any Discrimination Laws.



**SECTION O – BID RESPONSIBILITY ACKNOWLEDGEMENT**

THIS BID MUST BE SIGNED IN INK BY AN AUTHORIZED REPRESENTATIVE OF THE BIDDER; ANY ALTERATIONS OR ERASURES TO THE BID MUST BE INITIALED IN INK BY THE UNDERSIGNED AUTHORIZED REPRESENTATIVE.

The undersigned acknowledges, attests and certifies individually and on behalf of the Bidder that:

- (1) He/she is a duly authorized representative of the Bidder, has been authorized by Bidder to make all representations, attestations, and certifications contained in this Bid and all Solicitation Amendment, if any, issued.
- (2) Bidder, acting through its authorized representatives, has read and understands all Bid instructions, Specifications, Plans, terms and conditions contained in this Bid document (including all listed attachments and Solicitation Amendment, if any, issued);
- (3) The Bid submitted is in response to the specific language contained in the ITB, and Bidder has made no assumptions based upon either (a) verbal or written statements not contained in the ITB, or (b) any previously issued ITB, if any.
- (4) The State shall not be liable for any claims or be subject to any defenses asserted by Bidder based upon, resulting from, or related to, Bidders failure to comprehend all requirements of the ITB.
- (5) The State shall not be liable for any expenses incurred by Bidder in preparing and submitting its Offer or in participating in the Offer evaluation/selection process.
- (6) The Bidder agrees to be bound by and comply with all applicable requirements of ORS 279C.800 through ORS 279C.870 and the administrative rules of the Bureau of Labor and Industries (BOLI) regarding prevailing wage rates and payment of a fee to BOLI.
- (7) The Offer was prepared independently from all other Bidders, and without collusion, fraud, or other dishonesty.
- (8) Bidder is bound by and will comply with all requirements, Specifications, Plans, terms and conditions contained in this Bid (including all listed attachments and Solicitation Amendment, if any, issued);
- (9) Bidder will furnish the designated item(s) and/or service(s) in accordance with the Bid Specifications, Plans and requirements, and will comply in all respects with the terms of the resulting Contract upon award; and
- (10) Bidder represents and warrants that Bidder has the power and authority to enter into and perform the Contract and that the Contract, when executed and delivered, shall be a valid and binding obligation of Contractor enforceable in accordance with its terms.
- (11) All affirmations and certifications contained in Sections J, K, L, M and N are true and correct.

Authorized Signature: \_\_\_\_\_ Title: \_\_\_\_\_

FEIN ID# or SSN# (required): \_\_\_\_\_

Contact Person (Type or Print): \_\_\_\_\_

Telephone Number: \_\_\_\_\_ Fax Number: \_\_\_\_\_  
( ) \_\_\_\_\_ ( ) \_\_\_\_\_



**SECTION P - JOINT VENTURE/PARTNERSHIP DISCLOSURE**

The Offeror shall disclose whether the Offer is submitted by either a partnership or joint venture.

NO: \_\_\_\_\_ YES: \_\_\_\_\_

If yes, the Offeror shall provide the name of the contact person for the partnership or joint venturer.

Name: \_\_\_\_\_



**ATTACHMENT A**  
**PRELIMINARY SCOPE OF WORK**

**1. SCOPE OF WORK**

The Scope of Work is to place new towers at John's Peak, and to place shelters and generators at Shady Cove, Table Mtn. Tallowbox and Flounce Rock for ECSO's radio system. This is a performance specification and it is the responsibility of the Contractor to meet these specified requirements and to comply with all governing codes and regulations. ECSO is open to alternative solutions to those outlined to meet the performance specification. The Work is divided into the following elements:

1. **SITE PREPARATION/FOUNDATION CONSTRUCTION:** Including but not limited to providing access, clearing and grading, gravel base, gravel road, fencing, excavation and construction of reinforced concrete bases for, modular building, tower, and generator.
2. **TRANSPORTATION AND INSTALLATION OF COMMUNICATION TOWER:** ECSO will furnish the communications tower from Western Utilities as depicted on the attached shop drawings. Contractor work shall include but not limited to: Transportation of the tower from storage at ECSO; the excavation and construction of reinforced concrete base; tower erection; installing antenna mounts, and accessories; furnishing and installing ice bridge from tower to communications shelter for antenna lines. The antenna and feed line work is excluded from this contract.
3. **TRANSPORTATION AND PLACEMENT OF SHELTER OF A 12' W X 16" L concrete modular communications shelter.** Building weighs approximately 48,000 lbs.
4. **INSTALLATION OF AN EMERGENCY GENERATOR:** Contractor shall construct pads in accordance with the drawings for the emergency generator and propane fuel tank. Contractor will install (outdoor and indoor generators), the generator including furnishing and installing all conduit and wire, control wires, and connection to an automatic transfer switch located in the communications shelter. Generator will be provided by ECSO.
5. **ELECTRICAL SERVICE:** Furnish and install electrical service from the utility transformer to the communication shelter in accordance with the utility drawing include with the project drawings. Cost to furnish and install to be separately identified.
6. **GROUNDING:** Furnish and install grounding as depicted on the drawings and in accordance with R56 standards for the generator, building, communications tower, and fence.
7. **INSPECTIONS**  
The Agency will provide inspection services to ensure the quality of the overall project. These services include but are not limited to Agency, engineering, civil, and construction material inspections. The Contractor is responsible for coordinating all inspections with the Agency at least five (5) full business days prior to the needed inspection. The Contractor shall also coordinate with any Agency provided 3rd party inspection firms and any jurisdictional required inspection.



## 8. PERMITS

The following permits have been obtained by the Agency, all other permits are the responsibility of the Contractor. This includes any access permits such as timber company and forest service road use permits. The awarded contractor will be provided a list of property Agency's on the access right of way.

- Agency Obtained Permits
  - Conditional use permit
  - Access Easement

## 9. DELIVERABLES

Successful delivery of each of the individual communications sites in accordance with the applicable design, scope, and standards is required to achieve substantial completion. The contract deliverable is a completed, ready for use by the Agency, communications site that meets the full intent of the design.

## 10. MATERIALS

The Agency is supplying the Shelter, Tower, and generators. The remaining materials necessary for construction of the sites are the responsibility of the contractor.

## 11. COMMUNICATIONS

During the bidding process the contractor shall submit all bid related questions to the buyer using the method identified in the bid documents.

Communication during construction shall utilize a request for information (RFI) process for all clarifications of contract direction that is not defined or unclear in the contract documents. In the event that a contract requirement must be changed this shall be done utilizing a Contract

## 12. REPORTING

The Contractor shall submit a weekly report documenting the progress of construction including photos and a two week look ahead of work to be completed. The look ahead does not take the place of inspection requests, which have to be stand alone requests. The weekly reports are submitted via email to the Agency and their designees and must have the project name, "weekly report", and week ending date in the subject line. Weekly reports must be submitted in a timely manner no later than 5:00 PM PT on the Monday following the week the work has occurred. Failure to submit weekly progress reports will result in approval delay or rejection of invoices.



### 13. SUBSTITUTIONS

Material substitutions must be reviewed and approved by the Agency and the Engineer of record. This review takes time. Any material substitutions must be submitted to the Agency no less than 20 days prior to the desired use on site.

### 14. POWER RUNS

The distance of this new underground power run is estimated in the drawings. The contractor is responsible for coordinating the power installation with the local utility, which is believed to be Pacific Power, but will be the responsibility of the contractor to confirm. The contractor is responsible for installing the per code and utility provider requirements. The power runs are to be underground. The power meters are to be located at the communication site.

### 15. ACCESS ROADS

Contractor is responsible for documenting the before construction condition of any existing access roads and the repair to pre-construction conditions of any damage that occurs to the roads because of construction. New access roads are to be constructed per the plans.

## 2. SUBMITTALS

1. GENERAL: Submit to Agency: shop Drawings; product data (Manufacturer's catalog sheets, brochures, diagrams, schedules, performance charts, illustrations, and other standard descriptive data.); and Record Drawings for each site. Shop drawings / product data shall be provided for: Concrete mix design; reinforcing steel; propane tanks; fencing. The Agency will review submittal for design concept and conformance with Contract Documents.
2. SUBSTITUTIONS: Submit to the Agency a complete summary of the deviation from the Contract Documents including Supplemental Drawings and supporting data necessary to fully describe. All costs of substitutions, including but not limited to testing, engineering, and construction will be at the expense of the Contractor. No deviations from the Contract documents are permitted without written approval from the Agency.
3. CONSTRUCTION SCHEDULE: At the time of the Pre-Construction Conference, provide to the Agency a construction schedule in the form of a gaunt chart describing the anticipated flow of materials and labor for the work of this contract. Update weekly and ensure that the Agency is fully informed in advance of any significant changes.
4. MANUFACTURER'S MATERIAL SAFETY AND DATA SHEETS (MSDS Sheets): Provide information and instructions in conformance with current regulations. Provide notification to employees and on-site public as required.



### **3. SITE CONDITIONS**

1. **LAYOUT OF WORK:** The contractor shall be responsible for the layout of the work, including all measurements to provide a complete facility to line, grade and dimensions. See Site Drawing.
2. Keep current record of as-built documents. Record location of concealed items and utility lines, field changes in dimension or detail and changes in materials furnished.
3. **SITE MAINTENANCE:** The Contractor shall, at all times, keep the premises free from accumulations of waste material or rubbish caused by his employees or work and at the completion of the work he shall remove all of his rubbish from and about the structure, all tools, scaffolding, surplus materials, and shall leave his work "broom clean", or its equivalent, unless otherwise specified. In case of dispute, ECSO may remove the rubbish and charge the cost to the Contractor. All waste materials generated by the Contractor shall be removed on a daily basis and disposed of in accordance with applicable Federal, State, and local laws. Prior to Final Completion, Contractor shall make each site clean, neat and ready for operation.

### **4. TEMPORARY FACILITIES AND CONTROLS:**

1. **GENERAL:** Provide temporary protection as required for personnel and private property.
2. **SITE UTILITIES:** Temporary power, water and restroom facilities will be the responsibility of the Contractor to provide at no additional cost to the Agency.
3. **MATERIALS AND EQUIPMENT STAGING:** Provide adequate enclosure during construction to protect materials, construction and equipment from theft, vandalism and weather damage.
4. **CONSTRUCTION AIDS AND BARRIERS:** Provides barriers to protect new materials, equipment, new work, construction personnel, and the Public according to governing agency requirements.
5. **FIRE SAFETY:** Take all precautions to prevent the possibility of fire resulting from construction operations. Maintain one or more fire extinguishers on site. Avoid hazardous accumulations of rubbish and unsecured flammable materials. Store volatile wastes in covered metal containers, remove from premises daily and provide adequate ventilation.

### **5. PERFORMANCE OF WORK:**

1. **SUPERVISION:** The Contractor shall provide competent supervision of the work. A superintendent shall represent the Contractor continuously throughout the project and all communication with him shall be binding upon the Contractor. The supervisor shall be on site at all times during construction requiring coordination among sub-contractors.





2. **WORKMANSHIP:** Skilled, qualified persons fully experienced and familiar with the best current industry practices shall perform the Work.
3. **NON-CONFORMING WORK:** Work not conforming to Contract documents and not acceptable to the Agency shall be removed and replaced at the Contractor's expense. Execute cutting and patching of work as required to remove and replace defective work and work not conforming to Contract documents. Execute cutting, product removal and patching by methods which will prevent damage to other work, will provide proper surfaces to receive installation of repairs and comply with specified tolerances and finishes.
4. **REPAIR OF DAMAGE:** Repair damage, which occurs in connection with the Work of this Contract and restore finishes to specified or original condition.

#### **6. PROJECT CLOSEOUT:**

1. **PROCEDURE:** Contractor's Agency shall submit written certificate that the Contract documents have been reviewed, the project has been inspected, and that the Work or designated area of the Work is completed, noting any exceptions.
2. **INSTRUCTIONAL WALK-THROUGH:** Provide a walk-through for maintenance personnel for the purpose of familiarizing them with building systems and components.
3. **WORK NOT COMPLETED:** If the Agency determines that the work is not complete, he will notify the Contractor in writing, stating the reasons. The Contractor shall remedy the stated deficiencies. The Agency will re-inspect the work at the Contractor's request.
4. **WORK COMPLETE:** If the Agency determines that the work is substantially complete in accordance with the Contract, he will provide a Certificate of Substantial Completion to the Contractor, taking note of any remaining uncompleted work and requesting Final Submittal.
5. **PUNCHLIST INSPECTIONS:** When the site is ready for the Agency to start operations, the Contractor shall notify the agency of being ready for a punch list inspection. The Agency and their representatives will inspect the site and create a punch list to the contractor of contract items that are not in accordance with the plans. If necessary, the Agency will, at the request of the Contractor, make additional inspections until the terms of Final Acceptance and Final Payment are met.
6. **FINAL CLEANING:** Remove grease, dust, dirt, stains, materials, residue, etc. from sight-exposed surfaces. Repair, patch, and touch-up marred surfaces. Maintain in cleaned condition until final acceptance.
7. **FINAL SUBMITTAL:** Deliver Final Inspection, project record documents, guarantees, warranties, and certificates to the Agency upon completion of work including: a. Final Inspection/Certificate of Occupancy: Obtain from the issuing authority, and b. Record Drawings/Record Specifications: As required in subsequent sections.



8. Final statement and application for release of retainage shall include an itemized statement of original sum, additions and deductions from Directives, deductions for previous payments, and sum remaining due on a payment application form.
9. Submit a certified copy of the Final Punchlist from the Agency stating that each item has been completed to his satisfaction. Submit evidence of the change in the insurance coverage for the work. Submit required wage certification.

#### **7. SITE PREPARATION/FOUNDATION CONSTRUCTION:**

This element of the project will include but be limited to the Work required to prepare the site and construct the required foundations for the tower, modular building, generator, and propane tank. The work shall include but not be limited to:

- a) Provide clearing and access to the site I as shown on plans Further provide back filling, road repair and any improvement as shown on the plan and described above.
- b) Provide security fence as shown on plans.
- c) All installed gates must swing freely with latch and locks working as intended.
- d) Contractor shall install the signs using non-reversible hardware anchored to the metal portion of the fence. At sites without fencing, signs shall be installed on the building. RF Warning signs shall be installed per FCC requirements.
- e) Furnish and install a foundation slab and footings for the communications structure in accordance with the drawings.
- f) Provide a concrete pad for the entrance landing at the communications shelter door as shown on the drawings.
- g) Furnish and install concrete foundation for the communications tower as shown on the attached drawings.
- h) Contractor shall cure foundations to the following strengths before use or equipment or structure installation.
  - a. Shelter Foundations – 100% of design strength.
  - b. Tower Foundations – 80% of design strength.
  - c. Propane Tank Foundations – 100% of design strength or a full 7-day cure.
  - d. All other concrete under 2500 psi– 100% of design strength or a full 7-day cure.
  - e. All other concrete over 2500 psi – 100% of design strength.
- i) Contractor shall coordinate all inspections with the Special Inspector and the Agency at five (5) business days prior to need for inspection. Special Inspections (provided by Agency) and Agency inspections are required for all reinforced concrete with specified strength greater than 2500 psi. Concrete inspection required includes both reinforcing steel prior to pour and concrete during pour.
- j) The Agency's Special Inspector will provide up to eight (8) compression cylinders, five (5) of which will be tested (broken) on the following schedule: 7, 14, two at 28 days, and hold/56 days. The remaining three (3) cylinders are at the Contractor's discretion for the test (break) days.



## 8. COMMUNICATIONS TOWER:

This element of the project includes but is not limited to the Work required to erect the Western Utilities communication tower furnished by ECSO, including but not limited to anchors bolts, accessories, cable tray, climbing ladder and transmission line supports per attached Western Utilities drawings.

- a) The Contractor is responsible to conform to all codes and standards as may be referred to in these specifications. All such referenced codes are, by such reference, incorporated into this Contract as is set forth herein in full.
- b) Codes and standards shall be the latest issue and/or amendment thereto published at the date of the issue for bids. Codes and standards are abbreviated as follows:
  - AISC American Institute of Steel Construction
  - AISI American Iron and Steel Institute
  - ANSI American National Standards Institute
  - ASTM American Society of Testing and Materials
  - AWS American Welding Society
  - EIA Electronics Industries Association Standard 222 G Addendum #2
  - NEC National Electric Code
  - IBO International Building Code
  - Motorola Quality Standards -- FNE Installations Manual R56.
- c) Inspection of steel fabrication, welding and erection will be performed by certified independent inspector provided by the Contractor.
- d) The Contractor shall cooperate with all inspections and testing procedures.
- e) Prefabricated components and other manufactured items shall be delivered, stored, handled, and erected in such a manner that they will not be damaged or deformed. Materials stored on the site before erection shall be secured on platforms or pallets.
- f) Contractor shall provide stainless steel or galvanized exterior hardware. Contractor shall hot-dip galvanize all Contractor-supplied steel parts.
- g) 5.1.2. All required field modifications to steel must be properly treated with cold galvanizing compound.
- h) 5.1.3. All exterior zip ties must be stainless steel. Protruding ends of all interior nylon zip ties must be flush cut. All interior zip ties must be black UV resistant nylon.
- i) 5.1.4. All exposed unistrut and all-thread ends must be covered with appropriately sized rubber caps.
- j) 5.1.6. Contractor shall notify the Agency 48 hours in advance of beginning construction of the tower and 24 hours in advance of completing construction of the tower to full height.



- k) 5.1.7. All installations on the tower require an inspection by Agency. Contractor shall request this inspection through the Agency and the Agency at least one week in advance of desired inspection date.
- l) 5.1.8. Contractor shall have tower climbers on Site during Agency's tower inspection. The tower climbers shall be equipped with the necessary equipment to address deficiencies found during inspection.
- m) A lightning rod shall be installed at the top of the tower per industry standard. The lightning rod will not depend upon the tower for a ground return.
- n) Ice Shields mounting hardware shall be installed by others under separate contract.
- o) Microwave dish mounting hardware shall be installed by others under separate contract.
- p) Antenna mounting hardware shall be installed by others under separate contract.
- q) Any and all antenna and feed line work shall be done by others under a separate contract.

#### **9. COMMUNICATIONS SHELTER:**

This element of the project will include but not be limited to the Work required to transport and set a 12'x16' Sabre concrete modular communication shelter. Preliminary shelter drawings from Sabre are attached.

- a) The Contractor shall be responsible for all lifting and rigging equipment to loan, transport and set the shelter. Shelters are stored at ECSO, 400 Pech Road, Central Point, OR
- b) The Contractor shall be responsible for all hauling equipment from 400 Pech Road, Central Point, OR and shall obtain any and all required permits, flagging, and escort services.
- c) Contractor shall field-assemble and install components of the shelter, such as, but not limited to, fire extinguishers, first aid kit, eye wash station, exterior hoods, generator exhausts, and electrical connections.

#### **10. EMERGENCY GENERATOR/ELECTRICAL SERVICE:**

This element of the project will include but not be limited to construction of concrete pads as shown on the drawings for the generator (provided by ECSO) and the 1,000-gal propane tank (proposer provided). The furnishing and installation of all conduit and wiring as outlined on the drawings for the generator system.

- a) The installation of a 35 kW minimum emergency generator.
- b) Furnish and install a 1000-gallon propane tank as shown on the drawings.
- c) Furnish and install electrical service to the communication shelter.
- d) Furnish and install conduit and wire from Utility and install new Utility owned transformer at site as shown on drawings. Furnish and install conduit and wire for the 120/240 Volt, single phase, 200-amp electrical



service from the utility company transformer to the meter socket on the communications shelter. Provide in accordance with utility provider requirements.

#### **11. SITE GROUNDING REQUIREMENTS:**

- a) Contractor shall install all new grounding and grounding upgrades required by the project Plans and Statement of Work.
- b) Contractor shall perform all grounding Work in accordance with the Plans, Statement of Work, and current revision of the Motorola R56 Grounding Guidelines in addition to all applicable local, state, and national codes.
- c) Contractor shall provide three-point fall of potential test of the installed ground ring upon site completion. This test shall be performed in accordance with Motorola's procedures and recommendations.
- d) All below-grade grounding constructed as part of this Contract requires inspection before backfill. Contractor shall schedule the grounding inspection, coordinating that schedule with the Agency at least 48 hours prior to need for inspection.
- e) In the event that there is a conflict between the Plans or Statement of Work and the Grounding Guidelines, Contractor shall request clarification through the Agency.
- f) New buildings, tower, ice bridge installations, and grounding upgrades require new ground bar installations as shown in the Plans. Ground bar locations are at the tower ("TGB") and interior ("MGB") and exterior ("EGB") of the entry port.
- g) The Plans may not give a full representation of all required grounding bonds. Contractor shall bond all exterior metal components and structures per R56 Guidelines.
- h) Furnish and install a site grounding system as shown on the drawings in accordance with Motorola R56 standards dated 2017 generally including the following minimum requirements:
  - i. Install the grounding electrode system using industry standard components and techniques. Bond all external metal objects to the grounding electrode system as required. Test the grounding electrode system.
  - ii. There shall be only one grounding electrode system and the AC power system ground, underground metallic piping, and any other grounding system shall be bonded together to form a single grounding electrode system (per NFPA 70, Articles 250-90, 800-40, 810-21, and 820-40; and NFPA 780, Section 3-14.1).
  - iii. A grounding electrode system shall have low electrical impedance, with conductors large enough to withstand high fault currents.



- iv. The communications structure has an internal grounding system connected to a single connection point. Contractor shall interconnect the shelter to the site grounding system to provide a common ground potential. This shall also include lightning protection, electric service, as well as underground metallic piping systems. Underground metallic piping systems typically include water service, well castings located within 7.6 (25 ft.) of the structure, gas piping, underground conduits, underground liquefied petroleum gas piping systems, and so on. Interconnection to a gas line shall be made on the customer's side of the meter (per NFPA 780, Section 3-14).
  
- v. All metal objects that are located within (10 ft.) of the external grounding electrode system, or are associated with the communications site equipment, shall be bonded to the external grounding system using #2 AWG conductors. This includes but is not limited to:
  - 1. Internal Master Ground Bar (MGB)
  - 2. Metallic entry points
  - 3. Building ice shields
  - 4. Antenna tower
  - 5. Transmission lines
  - 6. Piping
  - 7. Generator and support skids
  - 8. Storage tanks (above and below grade)
  - 9. Anchors and/or skids on prefabricated buildings
  - 10. Conduits or raceways
  - 11. Fences
  - 12. Main electrical service grounding electrode system
  - 13. Metal roofing and truss systems
  - 14. Metallic structures on the building roof or rain gutter systems
  - 15. Any other grounding electrode systems at the site



**APPENDIX 1**

**PRICING RATE SHEET TEMPLATE**

Any and all unit pricing needs to be defined in the rate sheet for compensation.

Contractor Fee and Hourly Rates

BY: \_\_\_\_\_ Bidder's Name

Fee: \$ \_\_\_\_\_

Preconstruction Hourly Rate Schedule:

TITLE	RATE

Construction (Include only Applicable):

TITLE	STRAIGHT TIME

Materials and Supplies Cost Estimates: (No allowable mark-up)

Include costs for materials and supplies deemed necessary:

MATERIAL	COST PER	INSTALLATION COST	TOTAL COST



## APPENDIX 2

### PUBLIC IMPROVEMENT CONTRACT

**This Public Improvement Contract (Contract) is between EMERGENCY COMMUNICATIONS OF SOUTHERN OREGON, an intergovernmental agency formed by Oregon governmental entities under ORS Chapter 190, (Agency) and, \_\_\_\_\_ (Contractor).**

**Purpose:** Perform improvements at radio sites as part of a public safety radio system upgrade (Project).

**The parties agree as follows:**

**Date of Commencement and Substantial Completion.** The date of commencement of the Work shall be \_\_\_\_\_, 20\_\_.

The Contract Time shall be measured from the date of commencement. The Contractor shall achieve Substantial Completion of the entire Work not later than \_\_\_\_\_.

**Contractor's Agreement to Provide Work.** Contractor agrees to provide Agency the work described in Exhibit 1.

**Statement of Work.** Contractor shall perform the work described in Exhibit 1.

**Payment for Work.** The Agency agrees to pay Contractor in accordance with Exhibit 1 and this Contract.

**Contract Documents.** The Contract Documents consist of the following documents, which are listed in descending order of precedence: this Contract; exhibits to this Contract, including Exhibit 1 (Statement of Work, Compensation, Payment and Renewal Terms); Exhibit 2 (Insurance Requirements); Exhibit 3 (Certification Statement for Corporation or Independent Contractor); Exhibit 4 RESERVED, Exhibit 5 (Hazardous Materials Requirements), Exhibit 6 (Payment and Performance Bonds), and Exhibit 7 (Invitation to Bid and Contractor's Bid).

A conflict in the Contract Documents shall be resolved in the priority listed above, with this Contract taking precedence over all other documents. The Contract Documents are the entire contract between the parties and shall supersede any prior representation, written or oral.

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#### STANDARD TERMS AND CONDITIONS

- Time is of the Essence.** Time is of the essence in the performance of this Contract.





2. **Subcontracts.** Contractor shall not subcontract any of the work required by this Contract or assign or transfer any of its interest in this Contract without the prior written consent of the Agency, which may not be withheld without cause. In addition to any other provisions the Agency may require, Contractor shall require of any permitted Subcontractor under this Contract, that the Subcontractor be bound by all the same terms and conditions of this a Contract. Such subcontracts are solely between the Contractor and the Subcontractor and shall not have any binding effect on the Agency.
3. **Assignment.** This Contract is not assignable by the Contractor, either in whole or in part, unless Contractor has obtained the prior written consent of the Agency.
4. **Other Contractors.** The Agency may undertake or award other contracts for additional or related work, and the Contractor shall fully cooperate with such other contractors and with any Agency employees concerned with such additional or related work, and shall coordinate its performance under this Contract with such additional or related work. The Contractor shall not commit or permit any act that will interfere with the performance of work by any other contractor or by Agency employees.
5. **Independent Contractor Status.** Contractor shall certify status in accordance with Exhibit 3.
6. **No Third-Party Beneficiaries.** The Agency and Contractor are the only parties to this Contract and are the only parties entitled to enforce its terms. Nothing in this Contract gives or provides any benefit or right, whether directly, indirectly, or otherwise, to third persons unless such third persons are individually identified by name in this Contract and expressly described as intended beneficiaries of this Contract.
7. **Successors in Interest.** The provisions of this Contract shall be binding upon and inure to the benefit of the parties and their successors and approved assigns, if any.
8. **Nonperformance.** In the event of nonperformance under this Contract, the Agency, after seven (7) days' written notice, shall have the right to obtain from other sources such services as may be required to accomplish the work not performed, and it is agreed that the difference in cost, if any, for said work or goods shall be borne by the Contractor. For purposes of this section, nonperformance shall be defined as failure to appear and perform work as specified and scheduled.



9. **Escalation.** The Contractor shall submit any price or cost adjustments prior to the time in which such changes are to become effective and work is performed. The Agency reserves the right to reject any modifications of the Contract unacceptable to the Agency.
10. **Early Termination.** This Contract may be terminated as follows:
- a. **Termination by Mutual Agreement:** The Agency and Contractor, by mutual written agreement, may terminate this Contract at any time.
  - b. **Termination for Convenience:** The Agency, in its sole discretion, may terminate this Contract for any reason on 30 days' written notice to Contractor.
  - c. **Termination for Breach:** Either the Agency or Contractor may terminate this Contract in the event of a breach of the Contract by the other. Prior to such termination, the party seeking termination shall give to the other party written notice of the breach and intent to terminate. If the party committing the breach has not entirely cured the breach within 15 days of the date of the notice, then the party giving the notice may terminate the Contract at any time thereafter by giving a written notice of termination.
  - d. **Termination for Failure to Maintain Qualifications:** Notwithstanding paragraph 10(c), the Agency may terminate this Contract immediately by written notice to Contractor upon denial, suspension, revocation, or non-renewal of any license, permit or certificate that Contractor must hold to provide services under this Contract.
  - e. **Payment on Early Termination:** Upon termination pursuant to paragraph 10, payment shall be made as follows:
    - i. If terminated under 10(a) or 10(b) for the convenience of the Agency, the Agency shall pay Contractor for work performed prior to the termination date if such work was performed in accordance with the Contract. The Agency shall not be liable for direct, indirect, or consequential damages. Termination shall not result in a waiver of any other claim the Agency may have against Contractor.



- ii. If terminated under 10(c) by the Contractor due to a breach by the Agency, then the Agency shall pay the Contractor for work performed prior to the termination date if such work was performed in accordance with the Contract.
  - iii. If terminated under 10(c) or 10(d) by the Agency due to a breach by the Contractor, then the Agency shall pay the Contractor for work performed prior to the termination date provided such work was performed in accordance with the Contract, less any setoff to which the Agency is entitled.
11. **Payment of Invoices.** Unless otherwise provided in Exhibit 1, the payment period shall be one calendar month. Payments are due and payable thirty (30) days from receipt of Contractor's complete invoice or fifteen (15) days after payment is approved by the Agency, whichever is earlier. The Agency may withhold 5% of each payment as retainage pursuant to ORS 279C.570.
12. **Changes in the Work.** The Agency reserves the right to adjust the scope of the work by written Change Order if required by unforeseen circumstances or changes in the budget. No Change Order will be effective unless approved in writing by the Agency and signed by Contractor. Agreement on any Change Order shall constitute a final settlement of all matters relating to the change in the Work that is the subject of the Change Order, including, but not limited to, all direct and indirect costs associated with such change and any and all adjustments to the Contract Sum and the construction schedule.
13. **Inspection and Acceptance of Work.** Agency shall inspect Contractor's work and advise Contractor of any deficiencies, or if there are none, that the work has been accepted. Contractor shall perform all additional work necessary to correct any deficiencies without undue delay and without additional cost to Agency.
14. **Right to Withhold Payments.** Agency shall have the right to withhold from payments due Contractor such sums as necessary, in Agency's sole opinion, to protect Agency against any loss, damage, or claim which may result from Contractor's performance or failure to perform under this Contract or the failure of Contractor to make proper payment to any suppliers or subcontractors. If a liquidated damages provision is contained in the Scope of Work and if Contractor has violated that provision, Agency shall have the right to withhold from payments due Contractor such sums as are required to satisfy Agency's claims under that provision.



- 15. Knowledge of Site Conditions.** The Contractor shall, as a condition precedent to commencement of the Work, (a) become familiar with the Project site and review all analyses, studies, and test data available to the Contractor concerning the conditions of the Project site, (b) inspect the location of the Work and satisfy itself as to the condition thereof, including all structural, surfaces and observed subsurface conditions, and (c) determine (i) that the Contract Sum is just and reasonable compensation for all the Work, including all foreseen and foreseeable construction risks, hazards, and difficulties in connection therewith, (ii) that the Contract Time is adequate for the performance of the Work, and (iii) that the Work shall not result in any lateral or vertical movement of any adjacent structure. The Contractor will notify the Agency in writing in advance of commencement of the Work if it determines that it cannot satisfy these conditions.

The Contractor shall exercise special care in executing subsurface work in proximity of known subsurface utilities, improvements, and easements.

**16. Agency's Right to Stop the Work.**

- a. If the Contractor fails to correct Work which is not in accordance with the requirements of the Contract Documents or fails to carry out Work in accordance with the Contract Documents, the Agency may issue a written order to the Contractor to stop the Work, or any portion thereof, until the cause for such order has been eliminated.
- b. If suspension of the Work is warranted by reason of unforeseen conditions which may adversely affect the quality of the Work if such Work were continued, the Agency may suspend the Work by giving written notice to the Contractor. In such event, the Contract Time shall be adjusted accordingly, and the Contract Sum shall be adjusted to the extent, if any, that additional costs are incurred by reason of such suspension.
- c. Notwithstanding any other provision, the Agency's authorized representative may, in his or her complete discretion, stop all of the Work, or any portion of the Work, if the Work creates a safety hazard or if a life/safety threat exists to the facility or its occupants. Any cost to correct deficiencies in the Contractor's Work will be borne solely by the Contractor.

- 17. Performance of the Work.** The Contractor shall supervise, coordinate, and perform the Work in accordance with the Contract Documents in a professional, safe, and workmanlike manner and in accordance with all laws, codes, and professional standards applicable to the industries and trades involved, including without limitation, compliance with all applicable federal, state, and local building



codes, the Agency's construction and life safety policies and procedures, certification requirements applicable to the Work, and other policies or standards incorporated or referenced in the Contract Documents. Unless otherwise noted or directed, the Contractor will perform all Work in accordance with product manufacturers' recommendations or directions for best results. No preparatory step or installation procedure may be omitted unless specifically authorized by the Contract Documents or at the direction of the Architect or the Agency's Representative. Conflicts between manufacturers' directions shall be resolved by the Architect.

**18. Remedies.** In the event of breach of this Contract, the parties shall have the following remedies:

- a. If terminated under 10(c) by the Agency due to a breach by the Contractor, the Agency may complete the Work either itself, by agreement with another Contractor, or by a combination thereof. If the cost of completing the Work exceeds the remaining unpaid balance of the total compensation provided under this Contract, then the Contractor shall pay to the Agency the amount of the reasonable excess.
- b. In addition to the remedies in paragraphs 10 and 14 for a breach by the Contractor, the Agency shall also be entitled to any other equitable and legal remedies that are available.
- c. If the Agency breaches this Contract, Contractor's remedy shall be limited to termination of the Contract and receipt of Contract payments for which the Contractor has completed the Work.

**19. Claims.**

- a. Time Limits on Claims: Contractor's claims must be made within 21 days after occurrence of the event giving rise to such Claim or within 21 days after Contractor first recognizes the condition giving rise to the Claim, whichever is later. Agency claims must be made within the time set by then applicable statute of limitation. Claims must be made in writing to the Architect and the other party, and must identify the known bases for each Claim and the nature and amount of the relief sought.
- b. Continuing Contract Performance: Pending final resolution of a Claim except as otherwise agreed in writing, the Contractor shall proceed diligently with performance of the Contract and the Agency shall continue to make payments in accordance with the Contract Documents.



- c. Claims for Additional Costs: If the Contractor wishes to make a Claim for an increase in the Contract Sum, written notice as provided herein shall be given before proceeding to execute the Work. Prior notice is not required for Claims relating to an emergency endangering life or property. In an emergency affecting the safety of persons or property, the Contractor shall act to prevent threatened damage, injury, or loss and shall immediately notify the Agency.
  - d. Claims for Additional Time: If the Contractor wishes to make a Claim for an increase in the Contract Time, written notice as provided herein shall be given. The Contractor's Claim shall include an estimate of the cost and of probable effect of delay on progress of the Work. In the case of a continuing delay, only one Claim is necessary.
  - e. Injury or Damage to Person or Property: If any person suffers physical injury or property damage arising from the Work regardless of the cause, notice of such injury or damage, whether or not insured, shall be given immediately to the Agency's authorized representative and the Contractor's authorized representative. The notice shall provide sufficient detail to enable the Agency and any other party affected to investigate the matter.
- 20. Compliance with Applicable Law.** Contractor shall comply with all federal, state, and local laws applicable to the Work under this Contract, and all regulations and administrative rules established pursuant to those laws, including without limitation, the following requirements of the Oregon Public Contract Code:
- a. ORS 279A.110 (Non-discrimination Certification): Contractor certifies that it has not and will not discriminate against minorities, women or emerging small business enterprises in obtaining any required Subcontractors, or against a business enterprise that is owned or controlled by, or that employs a disabled veteran as defined in ORS 408.225.
  - b. ORS 279C.380 (Performance and Payment Bonds): Unless exempted by the Agency in writing pursuant to the Agency's local public contracting rules, prior to starting work under this Contract, Contractor or its Subcontractor shall execute and deliver to Agency a good and sufficient performance bond, in the form attached as Exhibit 7, in a sum equal to 100% of the construction portion of the Contract Price, and Contractor or its Subcontractor shall execute and deliver to Agency a good and sufficient payment bond, in the form attached as Exhibit 7, in a sum equal to 100% of the construction portion of the Contract Price, solely for the protection of claimants under ORS 279C.600.



- c. ORS 279C.505 (Prompt Pay Requirement, Liens, Taxes, and Drug Testing): Contractor shall make payment promptly, as due, to all persons supplying to such Contractor labor or material for the performance of the Work provided for in such Contract; pay all contributions or amounts due the Industrial Accident Fund from such Contractor or Subcontractor incurred in the performance of the Contract; not permit any lien or claim to be filed or prosecuted against the state or a county, school district, municipality, municipal corporation or subdivision thereof, on account of any labor or material furnished; and pay to the Department of Revenue all sums withheld from employees pursuant to ORS 316.167. Contractor shall further demonstrate that an employee drug testing program is in place.
  
- d. ORS 279C.510 (Recycling/Composting): If this Contract includes demolition work, the Contractor shall salvage or recycle construction and demolition debris, if feasible and cost-effective. If this Contract includes lawn or landscape maintenance, the Contractor shall compost or mulch yard waste material at an approved site, if feasible and cost-effective.
  
- e. ORS 279C.515 (Failure to Pay Promptly): If Contractor fails, neglects, or refuses to make prompt payment of any Claim for labor or services furnished to the Contractor or a Subcontractor by any person in connection with this Contract as such Claim becomes due, the Agency may pay such Claim to the person furnishing the labor or services and charge the amount of the payment against funds due or to become due the Contractor by reason of this Contract. The payment of a Claim in the manner authorized in this section shall not relieve the Contractor or the Contractor's surety from any obligation with respect to any unpaid Claims. If the Contracting Agency is unable to determine the validity of any claim for labor or material furnished, the Contracting Agency may withhold from any current payment due Contractor an amount equal to said claim until its validity is determined and the claim if valid, is paid.

Unless the payment is subject to a good-faith dispute as defined in ORS 279C.580, if Contractor or any first-tier Subcontractor fails to pay any Claim for materials or labor furnished under this Contract within 30 days after being paid by Agency, interest shall be due on such claim as specified in ORS 279C.515(2) at the end of the 10-day period that payment is due under ORS 279C.580(4). A person with any such unpaid Claim may file a complaint with the Construction Contractor's Board unless the complaint is subject to a good-faith dispute as defined in ORS 279C.580. The rate of interest charged to Contractor or first-tier Subcontractor on the amount due shall equal three times the discount rate on 90-day commercial paper in effect at the Federal Reserve Bank in the Federal Reserve District that



includes Oregon on the date that is 30 days after the date when payment was received from the public contracting agency or from the Contractor, but the rate of interest shall not exceed 30%. The amount of interest may not be waived.

- f. ORS 279C.520 and 279C.540 (Hours of Labor, Holidays, and Overtime): Except as otherwise provided in an applicable collective bargaining agreement with a labor organization, Contractor shall not employ and shall require that its Subcontractors not employ any person to perform construction work for more than ten hours in any one day, or 40 hours in any one week, except in cases of necessity, emergency, or where the public policy absolutely requires it, and in such cases, except in cases of Contracts for personal services as defined in ORS 279A.055, the laborer shall be paid at least time and a half pay:
- i. For all overtime in excess of eight hours a day or 40 hours in any one week when the work week is five consecutive days, Monday through Friday; and
  - ii. For all overtime in excess of ten hours a day or 40 hours in any one week when the work week is four consecutive days, Monday through Friday; and
  - iii. For work performed on Saturday and on any legal holiday specified in any applicable collective bargaining agreement or ORS 279C.540(1)(b).

The requirement to pay at least time and a half for all overtime worked in excess of 40 hours in any one week shall not apply to individuals who are excluded under ORS 653.010 to 653.261 or under 29 U.S.C. Section 201 to 209 from receiving overtime. Contractor shall and shall require its Subcontractors to give notice in writing to their employees who work under this Contract, either at the time of hire or before commencement of Work on the Contract, or by posting a notice in a location frequented by employees, of the number of hours per day and days per week that the employees may be required to work.

- g. ORS 279C.525 (Notice of Environmental Regulations): State law requires that solicitation documents for a public improvement contract make specific reference to federal, state, and local agencies that have enacted ordinances, rules, or regulations dealing with the prevention of environmental pollution or the preservation of natural resources that may affect the performance of this Contract. These agencies include, but are not limited to:





- i. Federal Agencies: Department of Agriculture, Forest Service, Soil and Water Conservation Service, Coast Guard, Department of Defense, Army Corps of Engineers, Department of Emergency, Federal Energy Regulatory Commission, Environmental Protection Agency, Department of Health and Human Services, Department of Housing and Urban Development, Solar Energy and Energy Conservation Bank, Department of Interior, Bureau of Land Management, Bureau of Indian Affairs, Bureau of Mines, Bureau of Reclamation, Geological Survey, Minerals Management Service, U.S. Fish and Wildlife Service, Department of Labor, Mine Safety and Health Administration, Occupational Safety and Health Administration, Department of Transportation, Federal Highway Administration, Water Resources Council.
  - ii. State Agencies: Department of Administrative Services, Department of Agriculture, Soil and Water Conservation Commission, Columbia River Gorge Commission, Department of Energy, Department of Environmental Quality, Department of Fish and Wildlife, Department of Forestry, Department of Geology and Mineral Industries, Department of Human Resources, Department of Consumer and Business Services, Land Conservation and Development Commission, Department of Parks and Recreation, Division of State Lands, Department of Water Resources.
  - iii. Local Agencies: City councils, county courts, county boards of commissioners, metropolitan service district councils, design commissions, historic preservation commissions, planning commissions, development review commissions, special district boards of directors, and other special districts and special governmental agencies such as Tri-Met, urban renewal agencies, and Port Districts.
  - iv. Tribal Governments.
- h. ORS 279C.527 (Green Energy Technology): Contractor shall ensure Agency's compliance with all applicable provisions of ORS 279C.527 and OAR Chapter 330 Division 135 regarding green energy technology requirements for new or major renovations of public buildings costing over \$1,000,000.
- i. ORS 279C.530 (Payment for Medical Care and Workers' Compensation): Contractor shall promptly, as due, make payments to any person, co-partnership, association, or corporation furnishing medical, surgical, and hospital care or other needed care and attention, incident to sickness or injury, to the employees of such Contractor, of all sums which the Contractor



agrees to pay for such services and all moneys and sums which the Contractor collected or deducted from the wages of employees pursuant to any law, contract, or agreement for the purpose of providing or paying for such service.

All employers, including the Contractor, that employ subject workers who work under this Contract in the State of Oregon shall comply with ORS 656.017 and provide the required workers' compensation coverage, unless such employers are exempt under ORS 656.126. Contractor shall ensure that each of its Subcontractors complies with these requirements.

- j. ORS 279C.545 (Time Limitations on Claims for Overtime): Construction workers employed by the Contractor or its Subcontractor shall be foreclosed from the right to collect for any overtime under this Contract unless a claim for payment is filed with the Contractor or Subcontractor within 90 days from the completion of the Contract, providing the Contractor or Subcontractor has:
- i. Caused a circular clearly printed in blackface pica type and containing a copy of this section to be posted in a prominent place alongside the door of the timekeeper's office or in a similar place which is readily available and freely visible to any or all workers employed on the Work, and
  - ii. Maintained such circular continuously posted from the inception to the completion of the Contract on which workers are or have been employed.
- k. ORS 279C.580(3) (Prompt Payment of First-Tier Subcontractors): Contractor shall include in each subcontract for property or services with a first-tier Subcontractor a clause that obligates the Contractor to pay the first-tier Subcontractor for satisfactory performance under its subcontract within ten days out of such amounts as are paid to the Contractor by the Agency. Contractor shall also include in each subcontract a clause that states that if the Contractor fails to pay any claim for materials or labor furnished under this Contract within 30 days after being paid by Agency, interest shall be due on such claim as specified in ORS 279C.515(2) at the end of the ten-day period that payment is due under ORS 279C.580(3). Contractor shall require each first-tier Subcontractor to include a payment clause and interest clause conforming to the requirements of ORS 279C.580 in each of its subcontracts, and to require each of its Subcontractors to include a similar clause in each contract with a lower-tiered subcontractor or supplier.



- I. ORS 279C.605 (Notice of Claim on Bond): Any person claiming a right of action under ORS 279C.600 must file a notice of claim as provided in ORS 279C.605.
  
- m. ORS 279C.800 to 279C.870 (Payment of Prevailing Wage Required):
  - i. The hourly rate of wage to be paid by Contractor or any Subcontractor to workers in each trade or occupation required for the public works employed in the performance of this Contract shall not be less than the specified minimum rate of wage in accordance with ORS 279C.838 and ORS 279C.840.
  - ii. The latest prevailing wage rates for public works contracts in Oregon are contained in the following publications: The July 1, 2022 Prevailing Wage Rates for Public Works Projects in Oregon. Such publications can be reviewed electronically at <https://www.oregon.gov/boli/employers/Pages/prevailing-wage-rates.aspx> and are hereby incorporated as part of the Contract Documents.
  - iii. Contractor and all Subcontractors shall keep the prevailing wage rates for this Project posted in a conspicuous and accessible place in or about the Project.
  - iv. The Agency shall pay a fee to the Commissioner of the Oregon Bureau of Labor and Industries as provided in ORS 279C.825. The fee shall be paid to the Commissioner under the administrative rule of the Commissioner.
  - v. If Contractor or any Subcontractor also provides for or contributes to a health and welfare plan or a pension plan, or both, for its employees on the Project, it shall post notice describing such plans in a conspicuous and accessible place in or about the Project. The notice shall contain information on how and where to make claims and where to obtain future information.
  
- n. ORS 279C.836 (Public Works Bond Required): The Contractor shall:
  - i. File a public works bond with the Construction Contractors Board pursuant to ORS 279C.836 before starting work on the Project, unless exempt under ORS 279C.836(2) (7) or (8); and



- ii. Include in every subcontract a provision requiring the Subcontractor to file a public works bond with the Construction Contractors Board pursuant to ORS 279C.836 before starting work on the Project, unless exempt under ORS 279C.836(2) (7) or (8).
  
- o. ORS 279C.845 (Prevailing Wage Certification; Additional Retainage):
  - i. Contractor and every Subcontractor shall file certified statements with Agency in writing in the form prescribed by the Commissioner of the Bureau of Labor and Industries, certifying the hourly rate of wage paid each worker whom Contractor or Subcontractor has employed upon such public work, and further certifying that no worker employed upon such public work has been paid less than the prevailing rate of wage or less than the minimum hourly rate of wage specified in the Contract, which certificate and statement shall be verified by the oath of Contractor or Contractor's surety or Subcontractor or Subcontractor's surety that Contractor and any Subcontractor has read such statement and certificate and knows the contents thereof, and that the same is true to Contractor or Subcontractor's knowledge. The certified statements shall set out accurately and completely the payroll records for the prior week including the name and address of each worker, the worker's correct classification, rate of pay, daily and weekly number of hours worked, deductions made, and actual wages paid. The Contracting Agency is not required to verify the truth of the contents of certified statements filed by the Contractor under this Section and ORS 279C.845.
  
  - ii. The certified statement shall be delivered or mailed by Contractor or Subcontractor to Agency. Certified statements for each week during which the Contractor or Subcontractor employs a worker upon the public work shall be submitted once a month, by the fifth business day of the following month. Information submitted on certified statements may be used only to ensure compliance with the provisions of ORS 279C.800 to 279C.870. Notwithstanding any other provision of this Contract and in addition to any other retainage required under this Contract, the Agency shall retain 25% of any amount earned by the Contractor until the Contractor has filed the certified statements with the Agency as required by this Section. The Agency will pay the retainage required under this Section within 14 days after the Contractor files the certified statements required by this Section.



- iii. The Contractor shall retain 25% of any amount earned by a first-tier subcontractor on this public works contract until the subcontractor has filed with the Contracting Agency certified statements as required by ORS 279C.845. The Contractor shall verify that the first-tier subcontractor has filed the certified statements before the Contractor may pay the subcontractor any amount retained. The Contractor shall pay the first-tier subcontractor the amount retained within 14 days after the subcontractor files the certified statements as required by ORS 279C.845. Neither the Contracting Agency nor the Contractor is required to verify the truth of the contents of certified statements filed by the first-tier subcontractor.
- iv. Contractor and each Subcontractor shall preserve the certified statements for a period of three years from the date of completion of the Contract.
  
- p. ORS 671.560, 701.026 (Landscape/Construction Contractors License Required): If Contractor is performing work as a landscape contractor as defined in ORS 671.520(2), Contractor must have a current, valid landscape contractor's license issued under ORS 671.560. If Contractor is performing work as a Contractor as defined in ORS 701.005(2), Contractor must have a current, valid construction contractor's license issued under ORS 701.026. Contractor shall further certify that all Subcontractors performing Work described in ORS 701.005(2) are registered with the Construction Contractors Board or licensed by the State Landscaping Contractor's Board as required by the above-noted statutes before they commence Work under this Contract. Contractor shall maintain in effect all licenses, permits, and certifications required for the performance of the Work. Contractor shall notify Agency immediately if any license, permit, or certification required for performance of this Contract shall cease to be in effect for any reason.
  
- q. Applicable Federal Statutes: Contractor shall comply with the provisions of the Immigration Reform and Control Act of 1986 regarding the verification of employment eligibility. In addition, Contractor expressly agrees to comply with the following: Workers' Compensation Laws (ORS Chapter 656); Wages, Hours and Records Laws (ORS Chapter 652); Conditions of Employment Laws (ORS Chapter 653); Safety and Health Regulations (ORS Chapter 654); and Unemployment Insurance (ORS Chapter 657); all regulations and administrative rules established pursuant to the forgoing laws; and all other applicable requirements of federal and state civil rights and rehabilitation statutes, rules, and regulations, including without limitation (a) Titles VI and VII of the Civil Rights Act of 1964, as amended, which prohibits discrimination on the basis of race, color, or national origin; (b) Sections 503 and 504 of the



Rehabilitation Act of 1973, as amended; (c) the Americans with Disabilities Act of 1990, as amended; (d) the Health Insurance Portability and Accountability Act of 1996; (e) the Age Discrimination in Employment Act of 1967, as amended and the Age Discrimination Act of 1975, as amended; (f) Discrimination against disabled persons (ORS 659A.142), (g) the Drug Abuse Office and Treatment Act of 1972 (P.L. 92.255) as amended, relating to nondiscrimination on the basis of drug abuse; (h) the Comprehensive Alcohol and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970 (P.L. 91.6160) as amended, relating to nondiscrimination on the basis of alcohol abuse or alcoholism; (i) Sections 523 and 527 of the Public Health Service Act of 1912 (42 U.S.C. 290 dd.3 and 290 ee-34), as amended, relating to confidentiality of alcohol and drug abuse patient records; (j) Title VIII of the Civil Rights Act of 1968 (42 U.S.C. 3601 et seq.), as amended, relating to nondiscrimination in the sale, rental, or financing of housing; (k) any other nondiscrimination provisions in the specific statute(s) under which application for Federal assistance is being made; and (l) the requirements of any other nondiscrimination statute(s) which may apply to the application. Contractor shall comply with the provisions of the Hatch Act (5 U.S. 1501-1508 and 7234-7328) which limit the political activities of employees whose principal employment activities are funded in whole or part with federal funds.

- r. Contractor certifies its compliance with the Oregon tax laws, in accordance with ORS 305.385.
- s. The following notice is applicable to Work involving excavation. "ATTENTION: Oregon law requires you to follow rules adopted by the Oregon Utility Notification Center. Those rules are set forth in OAR 952-001-0010 through OAR 952-001-0090. You may obtain copies of the rules by calling the center at (503) 232-1987."

**21. Quality of Goods and Services.** Unless otherwise specified, all materials shall be new and both workmanship and materials shall be of the highest quality. All workers and subcontractors shall be skilled in their trade. Contractor guarantees all work against defects in material or workmanship for a period of one (1) year from the date of acceptance or final payment from Agency, whichever is later. Contractor shall assign all manufacturers' warranties to Agency and all guarantees and warranties of goods supplied under this Contract shall be deemed to run to the benefit of Agency. Contractor shall provide Agency with all manufacturers' warranty documentation and operations and maintenance manuals.

**22. Errors.** The Contractor shall perform such additional work as may be necessary to correct errors in the Work required under this Contract without undue delays and without additional cost.



- 23. Access to Records.** The Contractor agrees that the Agency and its authorized representatives shall have access to the books, documents, papers, and records of the Contractor which are directly pertinent to the specific Contract for the purpose of making audit, examination, excerpts, and transcripts.

Contractor shall maintain all fiscal records directly relating to this Contract in accordance with generally accepted accounting principles. In addition, Contractor shall maintain any other records pertinent to this Contract in such a manner as to clearly document Contractor's performance. Contractor acknowledges and agrees that the Agency's duly authorized representatives shall have access to such fiscal records and other books, documents, papers, plans, and writings of Contractor that are pertinent to this Contract to perform examinations and audits and make excerpts and transcripts. Contractor shall retain and keep accessible all such fiscal records, books, documents, papers, plans, and writings for a minimum of three (3) years, or such longer period as may be required by applicable law, following final payment and termination of this Contract, or until the conclusion of any audit, controversy, or litigation arising out of or related to this Contract, whichever date is later.

- 24. Ownership of Work.** All work products created by the Contractor as part of Contractor's performance of this Contract, including background data, documentation, and staff work that is preliminary to final reports, shall be the exclusive property of the Agency. If any such work products contain intellectual property of the Contractor that is or could be protected by federal copyright, patent, or trademark laws, Contractor hereby grants the Agency a perpetual, royalty-free, fully paid-up, non-exclusive and irrevocable license to copy, reproduce, deliver, publish, perform, dispose of, use, re-use, in whole or in part, and to authorize others to do so, all such work products. The Agency shall have no rights in any pre-existing work product of Contractor provided to the Agency by Contractor in the performance of this Contract except to copy, use, and re-use any such work product for Agency use only. If this Contract is terminated by either party or by default, the Agency, in addition to any other rights provided by this Contract, may require the Contractor to transfer and deliver such partially completed work products, reports, or other documentation that the Contractor has specifically developed or specifically acquired for the performance of this Contract.

- 25. Warranty.**

- a. Contractor warrants and guarantees to the Agency that all work will be in accordance with the contract documents and will not be defective. Prompt notice of all defects shall be given to Contractor. All defective work, whether or not in place, may be rejected, corrected or accepted. Contractor understands that Agency, its various departments, and agencies, must be consulted and be allowed to inspect the work and sign off in each particular area. At all times, Agency's



representative and appropriate inspectors shall have access to the work for inspection and testing. Contractor shall provide proper and safe conditions for such access.

- b. Where any law, ordinance, rule, regulation, code, or other order of any public body having jurisdiction requires any work or part thereof to specifically inspected, tested or approved, Contractor shall assume full responsibility therefor and pay all costs in connection therewith and furnish the Agency representative the required certificates of inspection, testing or approval. If any work to be inspected, tested, or approved is covered without written concurrence of the Agency representative, it must be, if requested, uncovered for observation. Such uncovering shall be at the Contractor's expense.
- c. Neither observations by the Agency representative nor inspection tests or approvals by others shall relieve the Contractor from Contract's obligations to perform the work in accordance with the contract documents.
- d. If, within two (2) year(s) after the date of final completion and sign-off and payment of any retainage by the Agency to the Contractor, there is any defect in materials or workmanship, the Contractor shall promptly, without cost to the Agency and in accordance with the Agency's written instructions, either correct such defective work or, if it has been rejected by the Agency, remove it from the site and replace it with non-defective work. If Contractor does not promptly comply with the terms of such instructions, or in an emergency where a delay would cause serious risk of loss or damage, Agency may have the defective work corrected or the rejected work removed and replaced, and all direct or indirect costs of such removal and replacement including compensation for additional professional services shall be paid by Contractor. Such additional professional services include the services of any attorney employed by the Agency to assist it in dealings with the Contractor. If the Contractor does not pay for such work, or does not see that such work is performed as required by this section, a claim may be made upon Contractor's bond for payment of such work. All notices sent to Contractor shall have copies sent to Contractor's surety.
- e. Contractor warrants and guarantees that title to all work, materials, and equipment covered by the application for payment, whether incorporated in the project or not, will pass to Agency at the time of payment, free and clear of all liens, claims, security interests and encumbrances of any party whomsoever.

- 26. Security.** Any disclosure or removal of any matter and/or property not in conjunction with the specifications on the part of the Contractor or Contractor's employees shall be cause for immediate cancellation of the Contract. Any liability, including but not limited to, attorney fees, resulting from any action or suit brought against the Agency as a result of the Contractor's or Contractor's





employees' willful or negligent release of information, documents, or property contained in or on Agency property shall be borne by the Contractor. All information, documents, and property contained within these facilities shall be considered privileged and confidential.

27. **Indemnification.** To the fullest extent permitted by law, the Contractor shall indemnify and hold harmless the Agency, Architect, Architect's consultants, and agents and employees of any of them from and against claims, damages, losses, and expenses, including but not limited to attorney fees, arising out of or resulting from performance of the Work, provided that such claim, damage, loss, or expense is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property (other than the Work itself), but only to the extent caused by the negligent acts or omissions of the Contractor, a Subcontractor, anyone directly or indirectly employed by them or anyone for whose acts they may be liable, regardless of whether or not such claim, damage, loss, or expense is caused in part by a party indemnified hereunder. Such obligation shall not be construed to negate, abridge, or reduce other rights or obligations of indemnity which would otherwise exist as to a party or person described in this Paragraph 27.
  
28. **Insurance.** Prior to beginning the Work, the Contractor shall provide insurance in accordance with Exhibit 2.
  
29. **Waiver.** Waiver of any default under this Contract by the Agency shall not be deemed to be a waiver of any subsequent default or a modification of the provisions of this Contract.
  
30. **Arbitration.**
  - a. Any Claim arising out of or related to the Contract, except those waived as provided for in subparagraph 19, shall, after decision by the Architect or 30 days after submission of the Claim to the Architect, be subject to arbitration. At any time, part(ies) may endeavor to resolve disputes by mediation.
  - b. Claims shall be decided by arbitration, which, unless the parties mutually agree otherwise, shall be in accordance with the rules of Arbitration Service of Portland, Inc. The demand for arbitration shall be filed in writing with the other party to the Contract and with the Arbitration Service of Portland, Inc., and a copy shall be filed with the Architect. Exclusive venue for arbitration shall be in Jackson County, Oregon.
  - c. A demand for arbitration shall be made within a reasonable time after the Claim has arisen, and in no event shall it be made after the date when institution of legal or equitable proceedings based on such Claim would be barred by the applicable statute of limitations.



- d. Any award rendered by the arbitrator(s) will be final. Judgment may be entered upon it in any court having jurisdiction thereof, and will not be subject to modifications or appeal except to the extent permitted by Oregon law.
31. **Governing Law.** The provisions of this Contract shall be construed in accordance with the laws of the State of Oregon and rules of the Agency, as they appear at the time of signing or any subsequent addenda. Any legal action involving any question arising under this Contract must be brought in Jackson County Circuit Court. If the claim must be brought in a federal forum, then it shall be brought and conducted in the United States District Court for the State of Oregon.
32. **Severability.** If any term or provision of this Contract is declared by a court of competent jurisdiction to be illegal or in conflict with any law, the validity of the remaining terms and provisions shall not be affected, and the rights and obligations of the parties shall be construed and enforced as if the Contract did not contain the particular term or provision held invalid.
33. **Merger Clause.** This Contract and the attached exhibits constitute the entire agreement between the parties. All understandings and agreements between the parties and representations by either party concerning this Contract are contained in this Contract. No waiver, consent, modification, or change in the terms of this Contract shall bind either party unless in writing signed by both parties. Any written waiver, consent, modification, or change shall be effective only in the specific instance and for the specific purpose given.
34. **Anti-discrimination Clause.** Contractor must comply with all applicable requirements of federal and state civil rights law and rehabilitation statutes and shall not discriminate based on race, color, religious creed, sex, sexual orientation, age, marital status, familial status, political ideas or affiliation, national origin or ancestry, physical or mental disability, unless the reasonable demands of employment are such that they cannot be met by a person with a particular physical or mental disability in programs, activities, services, benefits, or employment.
35. **Attorney Fees.** If a suit or action is filed to rescind or enforce any of the terms of this Contract, including a request for arbitration under subparagraph 30 of this Contract, the prevailing party shall be entitled to recover from the other party, in addition to costs and disbursements provided by statute, any sum which a court, including any appellate court, or arbitrator may adjudge reasonable as attorney fees. In the event the prevailing party is represented by “in-house” counsel, the prevailing party shall nevertheless be entitled to recover reasonable attorney fees based on the



reasonable time incurred and the attorney fee rates and charges reasonably and generally accepted in the metropolitan Portland, Oregon area for the type of legal services performed.

**36. Rule of Construction.** The rule of construction that a contract is construed against the drafter shall not apply to any dispute over the interpretation of application of the Contract.

**37. Removal of Debris.** Contractor shall remove all trash and debris from the site for disposal. Contractor shall clean the work area and remove all trash, debris, and tools at least daily prior to leaving the job site and as needed to maintain a safe work area.

CONTRACTOR DATA AND SIGNATURE

Business Name:

Business Address:

Contractor Phone:

Federal Tax ID# or Social Security #:

Is Contractor a nonresident alien?  Yes  No

Business Designation (check one):  Sole Proprietorship  Partnership  
 Corporation-for profit  Corporation-non-profit  
 Other [describe here: \_\_\_\_\_]

Federal tax ID numbers or Social Security numbers are required pursuant to ORS 305.385 and will be used for the administration of state, federal, and local laws. Payment information will be reported to the Internal Revenue Service under the name and federal tax ID number or, if none, the Social Security number provided above.

I have read this Contract including the attached Exhibits. I certify that I have the authority to sign and enter into this Contract. I understand the Contract and agree to be bound by its terms.



Signature

Title

\_\_\_\_\_  
Name (please print)

\_\_\_\_\_  
Date

NOTE: Contractor must also sign Exhibit 3.

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**EMERGENCY COMMUNICATIONS OF SOUTHERN OREGON SIGNATURE**

(This Contract is not binding on the Agency until signed by the appropriate signing authority)

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Title

\_\_\_\_\_  
Date

\_\_\_\_\_  
Name (please print)



**Exhibit 1**

**STATEMENT OF WORK, COMPENSATION AND PAYMENT TERMS**

- 1. Contractor shall perform the following work:**

As per the attached RFP, Statement of Work and design requirements.

- 2. The maximum total payment under this Contract, including expenses, is \_\_\_\_\_.**
- 3. The Agency shall pay Contractor on the following basis:** See Section 11 in the Contract.

Payments shall be made to the address below:

- 4. Contractor will invoice the Agency for the Work as follows:**

Invoices shall be submitted to the address below:

Emergency Communications of Southern Oregon (ECSO)  
400 Pech Road  
Central Point, OR 97502

- 5. Agency will pay expenses on the following terms and conditions:** Expenses are included in the above-noted Contract Price.



## EXHIBIT 2

### INSURANCE REQUIREMENTS

Contractor shall at all times maintain in force at Contractor's expense, each insurance noted below:

**Workers' Compensation insurance in compliance with ORS 656.017, which requires subject employers to provide workers' compensation coverage in accordance with ORS Chapter 656 for all subject workers. Contractor and all Subcontractors of Contractor with one or more employees must have this insurance unless exempt under ORS 656.027 (See Exhibit 4).**

**THIS COVERAGE IS REQUIRED. Attach Certificate of Insurance. If Contractor does not have coverage and claims to be exempt, attach Exhibit 4 in lieu of Certificate.**

**Professional Liability / Errors & Omissions (E&O) insurance with a combined single limit of not less than \$2,000,000 each claim, incident, or occurrence, with an annual aggregate limit of \$4,000,000. This is to cover damages caused by error, omission, or negligent acts related to professional services provided under this Contract. This coverage must be provided and remain in force for two years after the completion of the Contract.**

**Commercial General Liability insurance, on an occurrence basis, with a limit of not less than \$2,000,000 each occurrence for Bodily/Personal Injury and Property Damage, with an annual aggregate limit of \$4,000,000. This insurance must include contractual liability coverage.**

**Commercial Automobile Liability insurance with a combined single limit, or the equivalent of not less than \$2,000,000 each occurrence for Bodily Injury/Personal Injury and Property Damage, including coverage for owned, hired, or non-owned vehicles.**

**Builders All-Risk insurance policy to cover the course of construction and all materials or equipment furnished or incorporated into the Work. The policy shall be equal to 100% of the contracted value of the Work, and cover all property of an insurable nature, which is either in place or intended to be used as part of the permanent structure. This insurance shall include the interest of Agency in the Work and shall insure against the perils of fire and extended coverage and shall include "all risk" insurance for physical loss or damage, including without limitation and without duplication of coverage, for theft, vandalism, and malicious mischief. Losses up to the deductible amount shall be the responsibility of the Contractor. This insurance shall be primary and not contributory to any Agency-provided insurance. No Work shall be performed, nor shall Contractor's equipment or materials be stored on Agency's premises, until a certificate evidencing such insurance has been delivered to and approved by Agency.**

**Additional Requirements.** Coverage must be provided by an insurance company admitted to do business in Oregon or rated A- or better by Best's Insurance Rating. Contractor shall pay all deductibles and retentions. A cross-liability clause or separation of insureds condition must be included in all commercial general liability policies required by this Contract. Contractor's coverage will be primary in the event of loss.



**Within 10 days after the receipt of Notice of Award, the successful Offeror shall be prepared to execute the Contract provided by the Agency. At the same time, the successful Offeror shall furnish a separate Performance and Payment Bond in a form and with surety satisfactory to the Agency in an amount equal to the full Contract sum for the faithful performance of the Contract and all provisions thereof. Agency shall be named as the obligee on the Bond. In addition, for contracts exceeding \$100,000, the Performance and Payment Bond shall remain in force for one year after completion and acceptance by the Agency.**

**Certificate(s) of Insurance Required.**

Contractor shall furnish a current Certificate(s) of Insurance to the Agency prior to Contract execution. The Certificate(s) shall provide that there shall be no cancellation, termination, material change, or reduction of limits of the insurance coverage without 30 days' written notice from the Contractor or Contractor's insurer to the Agency. The Certificate(s) shall also state the deductible or retention level. For commercial general liability, the Certificate shall also provide that the Agency, its agents, officers, and employees are Additional Insureds with respect to Contractor's services to be provided under this Contract. An additional insured endorsement shall be attached to the certificate of insurance. No Work shall commence until the certificate and additional insured endorsement are received by the Agency. If requested, complete copies of insurance policies shall be provided to the Agency.



**EXHIBIT 3**

**EMERGENCY COMMUNICATIONS OF SOUTHERN OREGON PUBLIC SAFETY RADIO SITE(S)  
IMPROVEMENTS**

**CERTIFICATION STATEMENT FOR CORPORATION**

**OR INDEPENDENT CONTRACTOR**

NOTE: Contractor Must Complete A or B below:

A. CONTRACTOR IS A CORPORATION, LIMITED LIABILITY COMPANY, OR PARTNERSHIP.

<b>I certify under penalty of perjury that Contractor is a [check one]:</b>		
<input type="checkbox"/> Corporation <input type="checkbox"/> Limited Liability Company <input type="checkbox"/> Partnership authorized to do business in the State of Oregon.		
_____	_____	_____
Signature	Title	Date

Or

B. CONTRACTOR IS A SOLE PROPRIETOR WORKING AS AN INDEPENDENT CONTRACTOR.

<p><b>Contractor certifies under penalty of perjury that the following statements are true:</b></p> <ol style="list-style-type: none"> <li>If Contractor is providing labor or services under this Contract for which registration is required under ORS Chapter 701, Contractor has registered as required by law, <b><u>and</u></b></li> <li>If Contractor performed labor or services as an independent contractor last year, Contractor filed federal and state income tax returns last year in the name of the business (or filed a Schedule C in the name of the business as part of a personal income tax return), <b><u>and</u></b></li> <li>Contractor represents to the public that the labor or services Contractor provides are provided by an independently established business, <b><u>and</u></b></li> <li>All of the statements checked below are true.</li> </ol> <p><b>NOTE: Check all that apply. <u>You must check at least four (4)</u> to establish that you are an Independent Contractor.</b></p> <p><input type="checkbox"/> A. The labor or services I perform are primarily carried out at a location that is separate from my residence or is primarily carried out in a specific portion of my residence that is set aside as the location of the business.</p> <p><input type="checkbox"/> B. I purchase commercial advertising or I have business cards for my business, or I am a member of a trade association.</p>
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- C. My business telephone listing is separate from my personal residence telephone listing.
- D. I perform labor or services only under written contracts.
- E. Each year I perform labor or services for at least two different persons or entities.
- F. I assume financial responsibility for defective workmanship or for service not provided by purchasing performance bonds, errors and omission insurance, or liability insurance, or providing warranties relating to the labor or services I provide.

\_\_\_\_\_  
Signature



**EXHIBIT 4**

**WORKER'S COMPENSATION EXEMPTION CERTIFICATE, APPLICABLE ONLY IF CONTRACTOR IS CLAIMING  
TO BE EXEMPT FROM PAYMENT**



## EXHIBIT 5

### EMERGENCY COMMUNICATIONS OF SOUTHERN OREGON

#### PUBLIC SAFETY RADIO SITE(S) IMPROVEMENTS HAZARDOUS MATERIALS REQUIREMENTS

Hazardous Materials as that term is defined under Section G, below.

- A. With respect to Hazardous Materials to be used during the course of the Work, the Contractor will implement and enforce a program to inventory and properly store and secure all Hazardous Materials that may be used or be present on the Project site, maintain available for inspection at the Project site all material safety data sheets, and comply with all regulations required by law for the storage, use, and disposal of Hazardous Materials. The program must provide for notification of all personnel of potential chemical hazards. Review of these hazards must be included in the Contractor's safety training program. The Contractor shall submit to the Agency a list of all Hazardous Materials to be brought by the Contractor or its Subcontractors onto the Agency's property, including the purpose for their use on the Project.
- B. In the event of a release or discovery of a preexisting release of Hazardous Materials, or if it is foreseeable that injury or death to persons may occur because of any material or substance (including without limitation Hazardous Materials) encountered on the Project site, the Contractor shall **immediately** (1) stop the Work or the portion of the Work affected, (2) notify the Agency and the Architect orally and in writing, and (3) protect against exposure of persons to the Hazardous Materials. The Contractor shall provide all written warnings, notices, reports, or postings required at law or by contract for the existence, use, release, or discovery of Hazardous Materials.
- C. With respect to any Hazardous Materials or other material or substance reported to the Agency under Section B above that was not introduced to the Project site by the Contractor or its Subcontractors of any tier, the Agency shall obtain the services of a qualified environmental consultant to verify the presence or absence of the material or substance reported by the Contractor and, in the event such material or substance is found to be present, to verify it to be rendered harmless. Unless otherwise required by the Contract Documents, the Agency shall furnish in writing to the Contractor and Architect the names and qualifications of persons or entities who are to perform tests verifying the presence or absence of such material or substance or who are to perform the task of removal or safe containment of such material or substance. The Contractor and the Architect will promptly reply to the Agency in writing stating whether or not either has reasonable objection to the persons or entities proposed by the Agency. If either the Contractor or Architect has an objection to a person or entity proposed by the Agency, the Agency shall propose another to whom the Contractor and the Architect have no reasonable objection. When the material or substance has been rendered harmless, Work in the affected area shall resume upon written agreement of the Agency and Contractor. By Change Order, the Contract Time may, subject to agreement by the Agency and the Contractor, be extended appropriately, and the Contract Sum



shall be increased in the amount of the Contractor's reasonable additional costs of shut-down, delay, and start-up, which adjustments shall be accomplished as provided in the Contract.

- D. With respect to any Hazardous Materials or other material or substance reported to the Agency under Section B above that was introduced to the Project site by the Contractor or its Subcontractors of any tier, the Contractor shall be responsible to carry out the duties of (1) proposing to the Agency and the Architect a qualified environmental consultant, (2) obtaining and paying for the services of the environmental consultant, and (3) verifying that the material is rendered harmless, as otherwise set forth in Section C above. The Contractor will not be entitled to an increase in the Contract Sum as stated in the last sentence of Section C if the Contractor or its Subcontractors of any tier are responsible for the condition requiring the testing of the material and the stoppage of the Work. Remediation work must be conducted by properly qualified contractors approved in advance by the Agency. Generally, the Agency may at its option contract directly with environmental consultants, and remediation contractors, regardless of whether the work will be performed at the Contractor's expense.
- E. To the fullest extent permitted by law, the Agency shall indemnify and hold harmless the Contractor, Subcontractors, Architect, Architect's consultants and agents and employees of any of them from and against claims, damages, losses, and expenses, including without limitation attorney fees, arising out of or resulting from performance of the Work in the affected area if in fact the material or substance was not introduced to the Project site by the Contractor or its Subcontractors of any tier, presents the risk of bodily injury or death, and has not been rendered harmless. No indemnification provided by the Agency under this Section will be required to indemnify the Contractor, Subcontractors, or their employees or agents to the extent of liability for death or bodily injury to persons or damage to property caused in whole or in part by the Contractor's own negligence, but will require indemnity to the extent of the fault of the Agency or its agents or representatives.
- F. To the fullest extent permitted by law, the Contractor shall indemnify and hold harmless the Agency, the Agency's Representatives, and employees of any of them from and against claims, damages, losses, and expenses, including without limitation attorney fees, arising out of or resulting from performance of the Work in the affected area if in fact the material or substance was introduced to the Project site by the Contractor or its Subcontractors of any tier, presents the risk of bodily injury or death, and has not been rendered harmless. No indemnification provided by the Contractor under this Section will be required to indemnify the Agency or its agents or representatives to the extent of liability for death or bodily injury to persons or damage to property caused in whole or in part by the Agency's own negligence, but will require indemnity to the extent of the fault of the Agency or its agents or representatives.
- G. Hazardous Materials are any substance defined or designated as being radioactive, infectious, hazardous, dangerous, or toxic by any federal, state, or local statute, regulation, or ordinance presently in effect or subsequently enacted. For purposes of Exhibit 5, the term "introduce" means



the physical placement or transportation of Hazardous Materials in or on the Project site regardless of whether the Hazardous Material was specified, required, or otherwise addressed in the Contract Documents.

Contractor Printed Name

Contractor Signature

---

Contractor Title

---

Date



**EXHIBIT 6**  
**EMERGENCY COMMUNICATIONS OF SOUTHERN OREGON**  
**PUBLIC SAFETY RADIO SITE(S) IMPROVEMENTS**  
**PERFORMANCE AND PAYMENT BONDS**

**PERFORMANCE BOND**

KNOW ALL PERSONS BY THESE PRESENTS that

\_\_\_\_\_ (Name of Contractor)

\_\_\_\_\_ (Address of Contractor)

\_\_\_\_\_ hereinafter called "PRINCIPAL", and  
(Corporation, Partnership, or Individual)

\_\_\_\_\_ (Name of Surety)

\_\_\_\_\_ (Address of Surety)

\_\_\_\_\_ (Oregon representative for service of process for Surety)

hereinafter called "SURETY", are held and firmly bound unto

Emergency Communications of Southern Oregon (ECSO)  
400 Pech Road  
Central Point, OR 97502

hereinafter called "AGENCY", in the total amount of \_\_\_\_\_

(insert here a sum)



\_\_\_\_\_ Dollars  
(\$ \_\_\_\_\_) for the  
equal to the contract price)

payment whereof PRINCIPAL and SURETY bind themselves, their heirs, executors, administrators, successors and assigns jointly and severally, firmly by these presents.

WHEREAS, the PRINCIPAL has by written agreement entered into a certain contract with the AGENCY, dated the \_\_\_\_ day of \_\_\_\_\_, 20\_\_, a copy of which is hereto attached and made a part hereof and is hereinafter referred to as the Contract. Said Contract is for:

\_\_\_\_\_  
\_\_\_\_\_

NOW, THEREFORE:

1. The condition of this obligation is such that, if PRINCIPAL shall promptly and faithfully perform said Contract, then this obligation shall be null and void; otherwise it shall remain in full force and effect.
2. The SURETY hereby waives notice of any alteration or extension of time made by the AGENCY.
3. It is expressly agreed that the Bond shall be deemed amended automatically and immediately, without formal and separate amendments hereto, upon amendment of the Contract not increasing the Contract price more than twenty percent (20%), so as to bind the PRINCIPAL and the SURETY to the full and faithful performance of the Contract as so amended. The term "Amendment", wherever used in this Bond, and whether referring to this Bond, the Contract, or the Loan Documents shall include any alteration, addition, extension or modification of any character whatsoever.



4. Whenever PRINCIPAL shall be, and declared by AGENCY to be in default under the Contract, the AGENCY having performed AGENCY's obligations thereunder, the SURETY may promptly remedy the default, or shall promptly:

- a) Arrange for the PRINCIPAL, with consent of the AGENCY, to perform and complete the contract;
- b) Complete the Contract in accordance with its terms and conditions, or
- c) Obtain a bid or bids for completing the Contract in accordance with its terms and conditions, and upon determination by AGENCY and the SURETY jointly of the lowest responsible bidder, arrange for a contract between such bidder and AGENCY, and make available as work progresses (even though there should be a default or a succession of defaults under the contract or contracts of completion arranged under this paragraph) sufficient funds to pay the cost of completion less the balance of the contract price; but not exceeding, including other costs and damages for which the SURETY may be liable hereunder, the amount set forth above. The term "balance of the contract price," as used in this paragraph, shall mean the total amount payable by AGENCY to PRINCIPAL under the Contract and any amendments thereto, less the amount properly paid by AGENCY to PRINCIPAL.

5. Any suit under this Bond must be instituted before the expiration of two (2) years from the date on which final payment under the Contract falls due.

6. If any provision of this Bond conflicts with state law, such portion will be deemed deleted therefrom and provisions conforming to such state law shall be deemed incorporated herein. The intent is that the bond shall be construed as a statutory bond and not as a common law bond.

7. No right of action shall accrue on this Bond to or for the use of any person or corporation other than the AGENCY named herein or the heirs, executors, administrators or successors of the AGENCY.

IN WITNESS WHEREOF, this instrument is executed in \_\_\_\_\_ counterparts, each one of which shall be deemed an original, this the \_\_\_\_ day of \_\_\_\_\_, 20\_\_.





CONTRACTOR AS PRINCIPAL

SURETY

Contractor's Name and Corporate Seal

Surety's Name and Corporate Seal

\_\_\_\_\_

\_\_\_\_\_

(Seal)

(Seal)

By: \_\_\_\_\_

By \_\_\_\_\_

Signature

Signature (Attach Power of Attorney)

Print Name: \_\_\_\_\_

Print Name: \_\_\_\_\_

Title: \_\_\_\_\_

Title: \_\_\_\_\_

ATTEST: \_\_\_\_\_

ATTEST:

\_\_\_\_\_

Signature

Signature

\_\_\_\_\_

\_\_\_\_\_

Title

Title

NOTE: Date of Bond must not be prior to date of Contract.

If CONTRACTOR is partnership, all partners must execute Bond.



Emergency Communication of Southern Oregon  
Invitation to Bid No. 04132023

**IMPORTANT:** SURETY companies executing BONDS must appear on the Treasury Department's most current list (Circular 570 as amended) and be authorized to transact business in Oregon. SURETY companies must also have an Oregon representative for service of process.



**PAYMENT BOND**

Any singular reference to Contractor, Surety, Agency, or other party shall be considered plural where applicable.

CONTRACTOR (Name and Address):

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

SURETY (Name and Address of Principal Place of Business):

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**CONTRACT**

Effective Date of Agreement:

\_\_\_\_\_

Amount:

\_\_\_\_\_

Description (Name and Location):

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**BOND**

Bond Number:

\_\_\_\_\_

Date (Not earlier than Effective Date of Agreement):

\_\_\_\_\_

Amount:

\_\_\_\_\_

Modifications to this Bond Form:

Surety and Contractor, intending to be legally bound hereby, subject to the terms set forth below, do each cause this Payment Bond to be duly executed by an authorized officer, agent, or representative.

CONTRACTOR AS PRINCIPAL

SURETY

Contractor's Name and Corporate Seal

Surety's Name and Corporate Seal

\_\_\_\_\_

\_\_\_\_\_

(Seal)

(Seal)



Emergency Communication of Southern Oregon  
Invitation to Bid No. 04132023

By: \_\_\_\_\_

Signature

By: \_\_\_\_\_

Signature (Attach Power of Attorney)

Print Name: \_\_\_\_\_

Print Name: \_\_\_\_\_

Title: \_\_\_\_\_

Title: \_\_\_\_\_

ATTEST: \_\_\_\_\_

Signature

ATTEST: \_\_\_\_\_

Signature

\_\_\_\_\_

Title

\_\_\_\_\_

Title

1. Contractor and Surety, jointly and severally, bind themselves, their heirs, executors, administrators, successors, and assigns to Agency to pay for labor, materials, and equipment furnished by Claimants for use in the performance of the Contract, which is incorporated herein by reference.
  
2. With respect to Agency, this obligation shall be null and void if Contractor:
  - 2.1 Promptly makes payment, directly or indirectly, for all sums due Claimants, and
  - 2.2 Defends, indemnifies, and holds harmless Agency from all claims, demands, liens, or suits alleging non-payment by Contractor by any person or entity who furnished labor, materials, or equipment for use in the performance of the Contract, provided Agency has promptly notified Contractor and Surety (at the addresses described in Paragraph 12) of any claims, demands, liens, or suits and tendered defense of such claims, demands, liens, or suits to Contractor and Surety, and provided there is no Agency Default.
  
3. With respect to Claimants, this obligation shall be null and void if Contractor promptly makes payment, directly or indirectly, for all sums due.
  
4. Surety shall have no obligation to Claimants under this Bond until:



Emergency Communication of Southern Oregon  
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- 4.1 Claimants who are employed by or have a direct contract with Contractor have given notice to Surety (at the addresses described in Paragraph 12) and sent a copy, or notice thereof, to Agency, stating that a claim is being made under this Bond and, with substantial accuracy, the amount of the claim.
- 4.2 Claimants who do not have a direct contract with Contractor:
  1. Have furnished written notice to Contractor and sent a copy, or notice thereof, to Agency, within 90 days after having last performed labor or last furnished materials or equipment included in the claim stating, with substantial accuracy, the amount of the claim and the name of the party to whom the materials or equipment were furnished or supplied, or for whom the labor was done or performed; and
  2. Have either received a rejection in whole or in part from Contractor, or not received within 30 days of furnishing the above notice any communication from Contractor by which Contractor had indicated the claim will be paid directly or indirectly; and
  3. Not having been paid within the above 30 days, have sent a written notice to Surety (at the address described in Paragraph 12) and sent a copy, or notice thereof, to Agency, stating that a claim is being made under this Bond and enclosing a copy of the previous written notice furnished to Contractor.
5. If a notice by a Claimant required by paragraph 4 is provided by Agency to Contractor or to Surety, that is sufficient compliance.
6. Reserved.
7. Surety's total obligation shall not exceed the amount of this Bond, and the amount of this Bond shall be credited for any payments made in good faith by Surety.
8. Amounts owed by Agency to Contractor under the Contract shall be used for the performance of the Contract and to satisfy claims, if any, under any performance bond. By Contractor furnishing and Agency accepting this Bond, they agree that all funds earned by Contractor in the performance of the Contract are dedicated to satisfy obligations of Contractor and Surety under this Bond, subject to Agency's priority to use the funds for the completion of the Work.
9. Surety shall not be liable to Agency, Claimants, or others for obligations of Contractor that are unrelated to the Contract. Agency shall not be liable for payment of any costs or expenses of any Claimant under this Bond, and shall have under this Bond no obligations to make payments to, give notices on behalf of, or otherwise have obligations to Claimants under this Bond.
10. Surety hereby waives notice of any change, including changes of time, to the Contract or to related subcontracts, purchase orders, and other obligations.
11. No suit or action shall be commenced by a Claimant under this Bond other than in a court of competent jurisdiction in the location in which the Work or part of the Work is located or after the expiration of one year from the date (1) on which the Claimant gave the notice required by Paragraph 4.1 or Paragraph 4.2.3, or (2) on which the last labor or service was performed by anyone or the last materials or equipment were furnished by anyone under the Contract, whichever of (1) or (2) first occurs. If the provisions of this paragraph are void or prohibited by law, the minimum period of limitation available to sureties as a defense in the jurisdiction of the suit shall be applicable.



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12. Notice to Surety, Agency, or Contractor shall be mailed or delivered to the addresses shown on the signature page. Actual receipt of notice by Surety, Agency, or Contractor, however accomplished shall be sufficient compliance as of the date received at the address shown on the signature page.

13. When this Bond has been furnished to comply with a statutory requirement in the location where the Contract was to be performed, any provision in this Bond conflicting with said statutory requirement shall be deemed deleted herefrom and provisions conforming to such statutory requirement shall be deemed incorporated herein. The intent is that this Bond shall be construed as a statutory Bond and not as a common law bond.

14. Upon request of any person or entity appearing to be a potential beneficiary of this Bond, Contractor shall promptly furnish a copy of this Bond or shall permit a copy to be made.

15. Definitions

15.1 Claimant: An individual or entity having a direct contract with Contractor, or with a first-tier subcontractor of Contractor, to furnish labor, materials, or equipment for use in the performance of the Contract. The intent of this Bond shall be to include without limitation in the terms "labor, materials or equipment" that part of water, gas, power, light, heat, oil, gasoline, telephone service, or rental equipment" that part of water, gas, power, light, heat, oil, gasoline, telephone service, or rental equipment used in the Contract, architectural and engineering services required for performance of the Work of Contractor and Contractor's subcontractors, and all other items for which a mechanic's lien may be asserted in the jurisdiction where the labor, materials, or equipment were furnished.

15.2 Contract: The agreement between Agency and Contractor identified on the signature page, including all Contract Documents and changes thereto.

15.3 Agency Default: Failure of Agency, which has neither been remedied nor waived, to pay Contractor as required by the Contract, or to perform and complete or otherwise comply with the other terms thereof.

FOR INFORMATION ONLY:

Name, Address and Telephone:

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Surety Agency or Broker;

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Agency's Representative (Engineer or other):

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**EXHIBIT 7**

**REQUEST FOR PROPOSALS AND CONTRACTOR'S PROPOSAL**