

## **OREGON STATE UNIVERSITY PUBLIC IMPROVEMENT CONTRACT**

This Public Improvement Contract for the **Utility Connection and Monitoring Facility Site Preparation Phase 1: PacWave** (the "Contract"), made by and between Oregon State University, hereinafter called OWNER, and **(Insert Contractor's Name)** hereinafter called the CONTRACTOR (collectively the "Parties"), shall become effective on **(Insert contract award date)**, or the date this Contract has been signed by all the Parties, whichever is later.

### **1. Contract Price, Contract Documents and Work.**

The CONTRACTOR, in consideration of the sum of \_\_\_\_\_ (the "Contract Price"), to be paid to the CONTRACTOR by OWNER in the manner and at the time hereinafter provided, and subject to the terms and conditions provided for in the Instructions to Bidders and other Contract Documents (as defined in the Oregon State University General Conditions referenced within the Instructions to Bidders), all of which are incorporated herein by reference, hereby agrees to perform all Work described and reasonably inferred from the Contract Documents. The Contract Price is the amount contemplated by the Base Bid adjusted for Alternates\_\_\_\_, as indicated in the accepted Bid.

Also, the following documents are incorporated by reference in this Contract and made a part hereof if checked for inclusion [X]:

[ ] (RESERVED)

### **PRICE ESCALATION.**

Contractor shall keep the pricing the same throughout the Initial Term of the Contract. Contractor may negotiate pricing for subsequent extension terms after the Initial Term, which consists of the 90 day period following the date of the issuance of the official Notice to Proceed. Contractor shall submit in writing any proposed increase in pricing to OSU for consideration at not more than 15 days prior to the expiration of the Initial Term of the Contract. Contractor must provide documentation in support of the request. OSU will consider price increase requests that are defined by reasonable and acceptable basis such as price increase related to CPI increases, minimum wage increases, increases in salaries due to collective bargaining agreements, etc. All price increases must be provided with supporting detail documenting the purpose of the increase and a basis for the price. OSU reserves the right to negotiate or reject any such price increase requests. Price increases accepted by OSU will remain the same for the entirety of the extended term.

### **2. Representatives.**

CONTRACTOR has named **(Insert Name)** its' Authorized Representative to act on its behalf. OWNER designates, or shall designate, its Authorized Representative as indicted below (check one):

A. [ ] Unless otherwise specified in the Contract Documents, the OWNER designates **(Insert Name)** as its Authorized Representative in the administration of this Contract. The above-named individual shall be the initial point of contact for matters related to Contract performance, payment authorization, and to carry out the responsibilities of the OWNER.

B. [X] Name of OWNER'S Authorized Representative shall be submitted by OWNER in a separate writing.

**3. Contract Dates.**

COMMENCEMENT DATE: Following the date of the written Notice to Proceed (“NTP”) issued by OSU.

SUBSTANTIAL COMPLETION DATE: **(77 Days)** from Notice to Proceed **(or 09/30/2020)**.

FINAL COMPLETION DATE: **(92 Days)** from Notice to Proceed **(10/15/2020)**.

**4. Media.**

Contractor shall make no news release, press release or statement to a member of the news media regarding this Work under this Agreement without prior written authorization from Owner. For any media articles (e.g. newspapers, magazines, online media) produced by the Contractor after receiving written authorization from Owner to produce such media, the Contractor shall provide to Owner upon request or prior to Completion of Work under this Agreement, the following: author, title, publication or website, page number (if applicable), and date of publication.

**5. Publications.** Contractor shall include the following acknowledgement in publications arising out of, or relating to, work performed under this Agreement:

- Acknowledgement: “This material is based upon work supported by the U.S. Department of Energy’s Office of Energy Efficiency and Renewable Energy (“EERE”) under the Water Power Program Award Number DE-EE0007899.”
- Disclaimer: “This report was prepared as an account of work sponsored by an agency of the United States Government. Neither the United States Government nor any agency thereof, nor any of their employees, makes any warranty, express or implied, or assumes any legal liability or responsibility for the accuracy, completeness, or usefulness of any information, apparatus, product, or process disclosed, or represents that its use would not infringe privately owned rights. Reference herein to any specific commercial product, process, or service by trade name, trademark, manufacturer, or otherwise does not necessarily constitute or imply its endorsement, recommendation, or favoring by the United States Government or any agency thereof. The views and opinions of authors expressed herein do not necessarily state or reflect those of the United States Government or any agency thereof.”

**6. Equipment.** Title to equipment: Title to equipment (property) acquired under this Agreement will conditionally vest upon acquisition with Owner.

**7. Technologies and Techniques.** As applicable, upon request by Owner or prior to Completion of Work under this Agreement, Contractor shall briefly describe the new technologies or techniques (specific capabilities and performance improvements enabled), the pre-commercialization history of the technologies and their potential application to current and future projects.

**8. Invention Disclosures.** As applicable, upon request by Owner or prior to Completion of Work under this Agreement, Contractor shall provide the following invention disclosures: List title, date submitted, and name of inventor. Invention disclosures are to be provided to Owner in a manner consistent with 37 CFR 401.14 ‘Standard Patent Rights Clauses.’

**9. Patent Applications.** As applicable, upon request by Owner or prior to Completion of Work under this Agreement, Contractor shall provide the following patent application information: list patent number, name of inventors, assignee, patent application number, date of filing, and title of patent application.

**10. Licensed Technologies.** As applicable, upon request by Owner or prior to Completion of Work under this Agreement, Contractor shall provide the following information for subject inventions licensed to third parties as applicable: list name of licensee, domestic or foreign patent or patent application

Exhibit B – Sample Public Improvement Contract  
number, title, and expiration date of agreement.

**11. Network and Collaborations.** As applicable, upon request by Owner or prior to Completion of Work under this Agreement, Contractor shall provide information to Owner about partnerships and other arrangements concluded with respect to the project or technology area or Work performed under this Agreement. Contractor shall list name of network or collaboration (if any), name of entities involved, date of agreement (if any), brief description of network or collaboration, and technology area. Contractor shall clearly denote the partner organizations unique and distinguished contribution to the Project as a result of work performed under this Agreement.

**12. Website Featuring Work or Work Results.** As applicable, upon request by Owner or prior to Completion of Work under this contract, Contractor shall provide Owner the following information: website or other Internet sites that reflect the Work or results of Work under this Agreement. List name of website, specific webpage(s) on which Work or results featured, and brief description of Work or results featured.

**13. Other Products.** As applicable, upon request by Owner or prior to Completion of Work under this contract, Contractor shall provide Owner the following information: additional Work output, such as data or databases, physical collections, audio or video, software or netware, models, educational aid or curricula, instruments or equipment. Contractor shall provide a brief description of additional project output, date of release, and entity to which output was provided.

**14. Awards, Prizes and Recognition.** As applicable, upon request by Owner or prior to Completion of Work under this contract, Contractor shall provide the following related to any awards, prizes, or other recognition for project work or results, subject inventions, patents or patent applications, etc. as a result of work performed under this contract. List name of award/recognition/prize, name of sponsoring organization, date of receipt, and subject of award/price/recognition.

**15. Contractor Reporting.** As applicable, Contractor shall report to Owner the following: a.) any notices or claims of patent or copyright infringement arising out of or relating to the performance of the Work performed under this Agreement; b.) potential or actual violations of federal, state, and municipal laws arising out of or relating to work performed under this Agreement; c.) any fatality or injuries requiring hospitalization arising out of or relating to the work under the Agreement; d.) potential or actual violations of environmental, health, or safety laws and regulations; e.) Any event which is anticipated to cause significant schedule slippage or cost increase; f.) any damage to Government owned equipment in excess of \$25,000; g.) any incident arising out of or relating to work under the Agreement that has the potential for high visibility in the media.

**16. Protected and Limited Rights Data.** As applicable, the Contractor shall mark protected data and limited rights data for all deliverables provided under this Agreement. Failure to properly mark data may result in its public disclosure under the Freedom of Information Act (FOIA, 5 U.S.C. Section 552) or otherwise. The work under this Agreement is funded by the U.S. Government. Therefore, unlimited rights are may be retained by the government, to any technical data or commercial or financial data produced under this Agreement.

**17. Records Retention and Audit.** Contractor is responsible to provide any information, documents, site access, or other assistance requested by Owner, Federal or State auditing agencies; or their authorized representatives, for the purpose of audits and investigations. Such assistance may include, but is not limited to, reasonable access to the Contractors records relating to this Contract.

**Accounting; Audit Access.** The Contractor shall keep full and detailed accounts and exercise such

Exhibit B – Sample Public Improvement Contract

controls as may be necessary for proper financial management under the Contract; the accounting and control systems shall be satisfactory to Owner. Owner, DOE, Federal or State auditing agencies; or their authorized representatives, shall be afforded reasonable and regular access to the Contractor's records, books, correspondence, instructions, drawings, receipts, subcontracts, purchase orders, vouchers, memoranda and other electronic and hard copy data relating to the Contractor's right to payment under and the Contractor's compliance with the terms and conditions of this Contract, and the Contractor shall preserve these for a period of six years after final payment or for such longer period as may be required by law.

If for any reason, any part of this contract, or any resulting contract(s) is involved in litigation, Contractor shall retain all pertinent records for not less than six years or until all litigation is resolved, whichever is longer. The Contractor will provide full access to such documents in preparation for and during any such litigation.

**Periodic and Final Audits.** Owner may, at its discretion, perform periodic audits of the cost of the work and any other reimbursable costs associated with the Project. Owner may conduct a final audit of all Project books and records prior to the Project closeout. The Contractor shall cooperate fully with Owner, DOE, Federal or State auditing agencies; or their authorized representatives, in the performance of such audits.

**18. Allowable Costs.** All Project costs must be allowable, allocable, and reasonable. The Contractor must document and maintain records of all Agreement related expenses, including, but not limited to in-kind contributions. The Contractor is responsible for maintaining records adequate to demonstrate that Agreement expenses claimed have been incurred, are reasonable, allowable, and allocable, and comply with cost principles. Upon request, the Contractor is required to provide such records to Owner, DOE, State or Federal auditing agencies; or their authorized representatives. Such records are subject to audit. Failure to provide Owner, DOE, State or Federal auditing agencies adequate supporting documentation may result in a determination by Owner, DOE, State or Federal auditing agencies; or their authorized representatives, that those costs are unallowable.

**19. Covered Relationship.** The Contractor shall notify Owner of the existence of a 'covered relationship' as defined by 5 CFR 2635.502(a) & (b) between the Contractor and Owner which creates at a minimum an apparent conflict of interest. The Contractor shall notify Owner of the covered relationship and provide detailed information and justification (including, for example, mitigation measures) as to why the relationship under this Agreement does not create an actual conflict of interest.

**20. Integration**

The Contract on the subject matter hereof consists in its entirety of the following in descending order: contract and any attached exhibits, any solicitation documents, and any responses by a successful bidder to any such solicitation documents. . There are no other understandings, agreements or representations, oral or written, not specified herein regarding this Contract. No change order or amendment, consent, or waiver of terms of this Contract shall bind either party unless in writing and signed by all parties. Any such change order, amendment, consent or waiver shall be effective only in the specified instance and for the specific purpose given.

CONTRACTOR, by the signature below of its authorized representative, hereby acknowledges that it has read this Contract, understands it, and agrees to be bound by its terms and conditions.

**In witness whereof,** Oregon State University executes this Contract and the CONTRACTOR does execute the same as of the day and year indicated below.

