

CONTRACTOR'S PROPOSAL

(Proposals shall be submitted in ink or typewritten)

TO: Public Utility District No. 1 of Okanogan County, Washington (hereinafter called the "District".)

ARTICLE I – GENERAL

Section 1. Offer to Construct

The undersigned (hereinafter called the "Bidder") hereby proposes to provide and install materials as specified in this proposal and to furnish all equipment, machinery, tools, labor, transportation, and other means required to perform the Project Titled **2010 Pole Replacement Project Work Order #2010-0121** in strict accordance with the plans and specifications, attached hereto and made a part hereof, for the price hereinafter stated. This bid constitutes a firm offer which cannot be withdrawn for sixty (60) consecutive calendar days after the District's opening of the bids.

If awarded the Contract the Bidder will execute and deliver to the District the written contract with the required Payment and Performance Bond, Certificates of Insurance and proof of proper submittal to the Washington State Department of Labor and Industries of its Statement of Intent to Pay Prevailing Wages within ten (10) calendar days after written notice of award.

Section 2. District-Furnished Materials

The Bidder understands and agrees that, if this Proposal is accepted, the District will supply to the Bidder all District-furnished material for the Project and the Bidder will give a receipt thereof in writing to the District. Bidders shall inventory, sign for and take delivery of such at District's warehouse at 1331 Second Avenue North, Okanogan, Washington, between 8:30 a.m. and 3:30 p.m. weekdays, except holidays.

Materials, if any, not required for the Project, which have been furnished to the Bidder by the District, shall be returned to the District by the Bidder upon Completion of Construction of the Project. The value of all materials not installed in the Project nor returned to the District shall be deducted from the final payment to the Bidder.

Section 3. Proposal on Unit Basis

The Bidder understands and agrees that the various units on which bids are made in this Proposal are as set out in **Exhibit A** (Construction Contract Form Attachments), that all said bids are on a unit basis, and that the District may specify any number or combination of the units that the District may deem necessary for the completion of the Project. Separate Construction Units are designated for each arrangement which maybe used in the construction of the project. The Proposal is based on a consideration of each unit in place and includes only the materials listed on the corresponding Construction Drawings or description of unit where no drawing exists.

Section 4. Collusion

The Bidder warrants that the proposal is made in good faith and without collusion or connection with any person or person bidding for the same work.

Section 5. Changes in Quantities

The Bidder understands and agrees that the quantities called for in the proposals are approximate, and that the total number of units upon which payment shall be made shall be as set forth in the inventory of completed work.

ARTICLE II – CONSTRUCTION

Section 1. Time and Manner of Construction

The Bidder agrees to prosecute diligently and to complete work in strict accordance with the Specifications and Drawings within the time period stated in **Exhibit A**: PROVIDED, HOWEVER, that the Bidder will not be required to perform any work on such days when in the judgment of the Engineer snow, rain, wind or dust make work impractical. Unless otherwise stated on the Bid Schedule, the completion date of the Project will be extended in the amount of time lost due to such conditions.

The time for completion of the Project shall be extended for the period of any reasonable delay which is due exclusively to causes beyond the control and without fault of the Bidder, including Acts of God, fires, floods and acts or omissions of the District with respect to matters for which the District is solely responsible.

The sequence of work shall be as determined by the Bidder, subject to the approval of the Engineer.

Section 2. Changes in Construction

The District, acting through the Engineer, may from time to time during the progress of the Project, in writing, make such changes, additions to or subtractions from the Plans, Specifications Construction Drawings, List of Materials and sequence of construction as conditions may warrant. Such changes shall not invalidate the Contract. Under such conditions, time for completion shall be extended.

The value of any extra work or change shall be determined by the unit prices named in the Contract or subsequently agreed upon by the District and Bidder.

No claim for extra cost or damages shall be made by the Bidder for work stoppages or delays caused by any government agency or for any cause beyond the control of the District.\\Delays in

delivery of District-furnished materials or equipment shall not be cause for claims for extra cost or damages by the Bidder.

Section 3. Supervision and Inspection

- A. The Bidder shall cause the work on the Project to receive supervision by a competent superintendent. The Bidder shall also employ, in connection with the Project, capable, experienced and reliable foremen and such skilled workmen as may be required for the various classes of work to be performed.
- B. The District reserves the right to require the removal from the Project of any employee of the Bidder, if, in the judgment of the Engineer, such removal shall be necessary in order to protect the interest of the District.
- C. The manner of work on the Project, and all materials and equipment used therein, shall be subject to the inspections, tests and approval of the Engineer, and the Bidder shall furnish all information required by the Engineer concerning the nature or source of any materials incorporated or to be incorporated in the Project. The District shall have the right to inspect all payrolls, invoices of materials, and other data or records of the Bidder or any subcontractor, relevant to the Project.
- D. The Engineer shall have the authority to suspend the work wholly or in part for such period or periods as the Engineer may deem necessary when conditions are considered unfavorable for the satisfactory prosecution of the work or because of the failure of the Bidder to comply with any of the provisions of the Contract. The time of completion hereinabove set forth shall be increased by the number of days of any such suspension, except when such suspension is due to the failure of the Bidder to comply with any of the provisions of this contract.
- E. The District shall furnish an inspector during normal District working hours, Monday through Friday, at District cost; District holidays and weekends excluded.

Section 4. Defective Materials and Workmanship

- A. The acceptance, by the Engineer, of any Contractor-furnished materials and equipment or the workmanship of the Contractor shall not preclude the rejection thereof if such materials, equipment or workmanship shall be found to be defective after delivery or installation. Any such materials, equipment or workmanship found defective before final acceptance of the project shall be replaced or remedied, as the case may be, by and at the expense of the Bidder.

The Bidder shall not be entitled to any payment hereunder so long as any defective materials, equipment or workmanship in respect to the Project have not been replaced or remedied, as the case may be.

- B. Notwithstanding any certificate which may have been given by the Engineer, if any materials, equipment or any workmanship which does not comply with the requirements of this Contract shall be discovered within one (1) year after Completion of the Project, the Bidder shall replace such defective materials or equipment or remedy any such defective workmanship within thirty (30) days after notice in writing of the existence thereof shall have been given by the District. In the event of failure by the Bidder to do so, the District may replace such defective materials or equipment or remedy such defective workmanship, as the case may be, and in such event the Bidder shall pay to the District the cost and expense thereof.

#### Section 5. Existing Obstructions and Underground Utilities

Existing conflicting District underground utilities are shown on the maps if known to the District. Such information is not guaranteed but is made available to the Bidder for whatever value it may have. Incompleteness or error in this information shall not be the cause for any claim for extra payment under this Contract nor shall it relieve the Bidder of his responsibility for contacting the applicable utilities for locates and for repairing any damage the Bidder may cause to these utilities.

#### Section 6. Clean Up

The Bidder shall keep the work site reasonably clear during the progress of the work.

Before this Project shall be considered complete, the Bidder shall replace damaged surfacing, remove surplus materials and trash, dispose of brush, repair all damages, and otherwise leave the job site in a neat, orderly and workmanlike condition.

#### Section 7. Existing Monuments

There may be existing monuments or markers relating to subdivisions, plats, roads, street centerline intersections, etc. discovered in the project process. The Bidder shall take special care to preserve these monuments. If the Bidder damages or destroys any monuments, markers or reference points, the Bidder shall have them reset by a licensed land surveyor. If monuments are in the path of construction, they shall be reset at Bidder's expense and under direction of the Engineer. All Costs incurred hereunder shall be considered incidental to the Project.

#### Section 8. Environmental Protection

The Bidder shall perform the work in compliance with all applicable Federal, State and local Environmental Laws.

Section 9. Contractor Shop

The successful bidder shall not shop out of the District Headquarters and shall be responsible for obtaining a secure location for storage of material and equipment for contractor crews to shop from on a daily basis. District furnished materials and equipment shall be inventoried, signed for and moved by the contractor to the contractor’s shop location at the start of a project.

ARTICLE III- PAYMENTS

Section 1. Payments to the Bidder

- A. Within the first twenty (20) days of each calendar month, the District may make partial payment to the Bidder for construction accomplished during the preceding calendar month on the basis of completed Construction Units furnished and certified to by the Bidder, and approved by the Engineer solely for the purposes of payment: PROVIDED, HOWEVER, that the billing invoice shall be received by the District not later than the first day of the month in which payment is expected. No partial payments will be made until an approved “Statement of Intent to Pay Prevailing Wages” has been received by the District. Approval for payment by the Engineer shall not be deemed approval of the workmanship or materials. Only ninety five percent (95%) of each such estimate approved during the construction of the Project shall be paid by the District to the Bidder prior to Completion of the Project. Five percent (5%) of the amount of the Contract shall be withheld until final acceptance of the work by the District, an affidavit of wages paid has been submitted to the District, and applicable releases from the Audit Section of the State Department of Revenue and the Department of Labor and Industries are received by the District.
  
- B. No payment shall be due while the Bidder is in default in respect of any of the provisions of this Contract and the District may withhold from the Bidder the amount of any claim by a third party against either the Bidder or the District based on alleged failure of the Bidder to perform the work hereunder in accordance with the provisions of this Contract.

Section 2. Payments to Subcontractors

The Bidder shall pay each subcontractor, if any, within five (5) days after receipt of any payment from the District in accordance with the amount specified in the Subcontract.

Section 3. Sales Tax Reporting

- A. The amount of tax reported and paid by the Bidder to the Washington State Department of Revenue due to any and all payments made to the Bidder for the work performed under this Contract shall be coded to the proper local or county authority by using the proper tax code location. Additionally, the Bidder shall require all subcontractors performing work under this contract to use the proper tax code location in reporting tax to the Washington State Department of Revenue for the payments they receive from the Bidder.

- B. The Bidder, as a condition of receiving any retainage held under this Contract, shall provide to the District copies of all state tax returns showing that the tax has been reported in compliance with the above paragraph.

ARTICLE IV-PARTICULAR UNDERTAKINGS OF THE BIDDER

Section 1. Protection to Persons and Property

The Bidder shall at all times take all reasonable precautions for the safety of employees on the job site and for the general public, and shall comply with all applicable provisions of Federal, State, and Municipal safety laws and building and construction codes.

The following provisions shall not limit the generality of the above requirements:

- A. The Bidder shall so conduct the Project as to cause the least possible obstruction of Public Thoroughfares.
- B. The Bidder shall provide and maintain all such guard lights, traffic cones and other protection for the public as may be required by applicable statues, ordinances and regulations or by local conditions.
- C. The Bidder shall limit the movement of its crews and equipment so as to cause as little damage as possible to crops, orchards, or property and shall endeavor to avoid marring the lands. All fences which are necessarily opened or moved during the Project shall be replaced in as good condition as they were found and precautions shall be taken to prevent the escape of livestock. The Bidder shall not be responsible for loss of or damage to crops on the right-of-way necessarily incident to the Project and not caused by negligence or inefficient operation of the Bidder. In the event that it is necessary for the contractor to work off the right-of-way shown on the plans, he shall first obtain the permission of the owner and all such work shall be subject to the provisions of the contract. The Bidder shall restore any subject property to original or equivalent condition.
- D. The Project, from the commencement to completion of work, or to such earlier date or dates when the District may take possession and control in whole or in part as hereinafter provided shall be under the charge and control of the Bidder. During such period of control by the Bidder, all risks in connection with the completion of the Project and the materials to be used therein shall be borne by the Bidder. The Bidder shall make good and fully repair all injuries and damages to the project or any portion thereof under the control of the Bidder by reason of any Act of God or other casualty or cause whether or not the same shall have occurred by reason of the Bidder's negligence. The Bidder shall hold the District harmless from any and all claims for injuries to persons or for damages, including consequential damages, happening by reason of any negligence on the part of the Bidder, or any of the Bidder's agents or employees during the control by the Bidder of the Project or any part thereof.

- E. Upon violation by the Bidder of any of the provisions of this section, after written notice of such violation given to the Bidder by the District, the Bidder shall immediately correct such violation. Upon failure of the Bidder to do so the District may correct such violation at the Bidder's expense; PROVIDED, HOWEVER, that the District may if it deems it necessary or advisable, correct such violation at the Bidder's expense without such prior notice to the Bidder.
- F. The Bidder shall submit to the District monthly reports in duplicate of all accidents, giving such data as may be prescribed by the Engineer.

Section 2. Customer Relations

Complaints of any nature received from property owners or public authorities shall receive immediate attention by the Bidder. All complaints and any action taken by the Bidder in connection with such complaints shall be reported to the District.

It is understood that the Bidder does not represent the District and has no authority to obligate the District for any payment or benefit of any kind to any person.

Section 3. Prevailing Wages

The Bidder agrees that no workman, laborer or mechanic employed in the performance on any part of this Contract shall be paid less than the 'prevailing rate of wage' as determined by the industrial statistician of the Department of Labor and Industries. The schedule of the prevailing wage rates for the locality or localities where this Contract will be performed is attached.

In case of any inconsistency between the prevailing wage rates attached and those required by The Department of Labor and Industries, at the time the "Statement of Intent to Pay Prevailing Wages" form is processed, the rates required by the Department shall prevail. Notwithstanding the referenced prevailing wage rate, workers under this Contract shall be paid in accordance with the 02/92 Northwest Line Chapter NECA/IBEW Local 77 Agreement.

The Bidder agrees to comply with RCW 39.12, State of Washington and all other applicable laws.

Before payment of any funds will be made, the Bidder shall submit, and the State Department of Labor and Industries shall have approved, a statement of intent to pay prevailing wages for the labor classifications involved.

Section 4. Assignment of Guarantees

All guarantees of materials and workmanship running in favor of the Bidder shall be transferred and assigned to the District prior to the time the Bidder receives final payment.

ARTICLE V-REMEDIES

Section 1. Completion on Bidder's Default

If the Bidder or any subcontractor defaults on this proposal, the District, without limiting its legal and equitable remedies, may serve upon the Bidder and the Surety or Sureties of the Bidder's Payment and Performance Bond or Bonds written notice requiring the Bidder to cause such fault to be corrected forthwith. Unless within five (5) days after the service of such notice upon the Bidder such default shall be corrected, the District may take over the work on the Project and prosecute the same to completion by Contract, or otherwise, for the account and at the expense of the Bidder. Furthermore, the Bidder and its Surety or Sureties shall be liable to the District for any cost or expense in excess of the Contract price occasioned thereby. In such event the District may take possession of and utilize, in completing the Project, any materials, tools, supplies, equipment, appliances, and plant belonging to the Bidder or any of its subcontractors, which may be situated at the sit of the Project. The District in such contingency may exercise any rights, claims or demands which the Bidder may have against third persons in connection with this Contract and for such purpose the Bidder does herby assign, transfer and set over unto the District all such rights, claims, and demands.

ARTICLE VI- MISCELLANEOUS

Section 1. Compliance with Statutes and Regulations

The Bidder shall comply with all applicable statues, ordinances, rules and regulations pertaining to the work. The Bidder understands that the obligations of the parties hereunder are subject to the applicable regulations and orders of Government Agencies having jurisdiction in the premises.

Section 2. Discrimination Against Employees

The Bidder shall not discriminate against any employee or applicant for employment because of sex, race, creed, color, or national origin.

Section 3. Compliance with the Drug Free Workplace Act.

The Bidder shall agree in writing to abide by the Drug Free Workplace Act of 1988. The Bidder shall remove any employee from further work when it is determined that they are not fit for duty. The Bidder shall further agree in writing that failure to comply with the aforementioned requirements shall be cause to cancel any agreement or contract entered into with the District.

Section 4. Non-Assignment of Contract

The Bidder shall not assign the Contract or any interest in any funds to become due there under nor contract with any person, firm, or corporation for the performance of the Bidder's obligations

without the approval in writing of the District and of the Surety or Sureties on any bond furnished by the Bidder.

Each and all of the covenants and agreements herein contained shall extend to and be binding upon the successors and assigns of the parties hereto.

Section 5. Contractor

Upon acceptance of this Proposal, the successful Bidder shall be the Contractor and all references in the Proposal to the Bidder shall apply to the Contractor.

Section 6. Safety

The Contractor shall at all times exercise the necessary precautions for the safety of employees on the work, and shall comply with all applicable provisions of Federal and State or other safety rules and laws and construction codes, all in addition to compliance with provisions of like or similar nature that may be specified elsewhere herein.

The Contractor shall maintain all work areas free from dust and smoke which would cause a hazard or nuisance to the surrounding public and the District. No separate payment shall be made for dust control which the contractor is required to provide.

The Contractor shall exercise the necessary precautions to prevent unauthorized fires either within or adjacent to the limits of the work and he shall be responsible for all damages from fire directly or indirectly to his own activities or those of his employees or his subcontractors and their employees. The Contractor shall conform to all Federal, State, County and Municipal governmental regulations pertaining to burning, fire prevention and control within or adjacent to the work.