

**SECTION IV
CONTRACT
BID NUMBER 180802**

THIS AGREEMENT is made and entered into between **PUBLIC UTILITY DISTRICT NO. 1 OF CLALLAM COUNTY** (hereinafter called the "District") and _____ (hereinafter called the "Vendor").

WITNESSETH: That the District and the Vendor, in consideration of the payments hereinafter mentioned, agree as follows:

1. CONTRACT DOCUMENTS

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

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

2. CONTRACT COST

The Vendor agrees to sell and deliver to the District, at the delivery point specified in the Notice and Instructions to Bidders, and the District agrees to purchase from the Vendor, the following Material in accordance with the Contract Documents and the provisions of the Vendor's Proposal attached hereto and made a part hereof:

Item No.	Quantity	Pole Length (Feet)	Pole Class	Price Delivered to Port Angeles, WA	Delivery Date
1.	23	70	H1	\$	
2.	7	75	H1	\$	
3.	1	85	H1	\$	
4.	*1	85	H1	\$	
Totals	32			\$	

*No Drilling

Note: Washington State Sales Tax is not included in contract price; however, appropriate taxes will be applicable on purchase.

Alternate Bid Provisions and Specifications:

3. PERFORMANCE BOND

The Vendor agrees to furnish a bond in the penal sum not less than the bid cost of the Material, on an appropriate form, with a Surety or Sureties acceptable to the District. In the event that the Surety or Sureties on the performance bond delivered to the District shall at any time become unsatisfactory to the District, the Vendor agrees to deliver to the District another or an additional bond. Should the successful Bidder fail or refuse to execute such counterparts or to furnish a Performance Bond within ten (10) days after written notification of the acceptance of the Proposal by the District, the Bidder will be considered to have abandoned the Proposal. In such event, the District shall be entitled (a) to enforce the bid bond in accordance with its terms, or (b) if a certified check has been delivered with the Proposal, to retain from the proceeds of the certified check the difference (not exceeding the amount of the certified check) between the amount of the Proposal and such larger amount for which the District may in good faith contract with another party to furnish the Material. The term "successful" Bidder shall be deemed to include any Bidder whose Proposal is accepted after another Bidder has previously refused or has been unable to execute the Bond.

4. INSPECTION AND TESTING

The Vendor shall keep the District informed of the construction and test schedule of the materials to be furnished such that the District may at any time and at its own discretion make inspection and witness tests of the Material.

5. SHIPMENT AND DELIVERY

The Vendor shall deliver the Equipment F.O.B. to the District's Port Angeles Operations Center at 1936 West 18th Street, Port Angeles, Washington 98363. The Vendor shall bear the risk of any loss, deterioration, or damage until the Equipment is delivered and accepted by the District as herein required.

Upon the shipment of any Material hereunder, the Vendor shall submit to the District a detailed statement of the Materials shipped and scheduled arrival date. The District shall, upon receipt of such Materials, make final payment therefore to the Vendor not later than ninety (90) days after delivery and acceptance of all the Materials.

6. RIGHT OF INSPECTION; REJECTION OF EQUIPMENT

The District shall have five (5) business days after receipt of the Equipment to inspect the Equipment and either accept or reject it. If the Equipment is rejected, the District shall provide written notice to the Vendor in such time so that such notice will be received no later than ten (10) business days after the District's receipt of the Equipment (such inspection and notification shall in no way negate the terms and conditions as set forth in section seven (7) "Warranty" and section eight (8) "Manufacturers' Guarantees"). The Vendor may modify the rejected Equipment as to bring it into conformance with the Contract Documents or replace it with equipment

conforming to the Contract Documents, to be delivered F.O.B. the destination stated in Section five (5) above. No payment shall be made for such rejected equipment until it has been modified or replaced by the Vendor to the satisfaction of the District.

Should the Vendor fail to replace or modify the rejected Equipment to the satisfaction of the District, the District may cancel this contract and recover any and all damages available at law or in equity or by statute, including incidental and consequential damages.

7. **WARRANTY**

The Vendor warrants that the Equipment adheres in every respect to the specifications as set forth in the Specifications. Notwithstanding acceptance of the Equipment or any portion thereof by the representative of the District, or any certificate which may have been given, or payment which may have been made by the District, if any defect is discovered within eighteen (18) months after receiving the Materials or within one (1) year of being energized, whichever is longer, the Vendor shall furnish labor and materials to remove, replace, and install any such defective part(s) as promptly as possible after notice in writing from the District. If any defective part(s) shall be discovered within thirty-six (36) months after receiving the Equipment, the Vendor shall furnish any replacement part(s) as promptly as possible after notice in writing from the District, to be delivered to F.O.B. the destination stated in Section 4 above. In the event of failure by the Vendor so to do, the District may make such replacement and the cost and the expense thereof shall be paid by and recoverable from the Vendor. Vendor shall warrant 90 days for travel charges.

8. **MANUFACTURERS' GUARANTEES**

All manufacturers' guarantees of the Equipment or any portion thereof shall be transferred and assigned to the District upon delivery of the Equipment and before payment is made for such Equipment. Such guarantees shall be in addition to those required of the Vendor by other provisions of this contract. **A copy of the manufacturer's warranty shall be included with the bidder's proposal.**

9. **INDEMNITY**

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

10. **WAIVER OF DEFAULT**

No term or provision of this contract shall be deemed waived and no breach excused unless such waiver or consent is in writing and signed by the party claimed to have provided such waiver or consent. No waiver by either party of any right, failure to perform, or of any breach by the other party hereunder shall constitute a waiver of any other right hereunder or of any other breach or failure by such other party, whether of a similar nature or otherwise.

11. DISPUTE RESOLUTION

This contract and the performance thereof shall be governed, interpreted, construed and regulated according to the provisions of the Uniform Commercial Code as they are in effect in the laws of the State of Washington as of the date of this contract. Venue for any legal action arising from this contract shall be in the Superior Court of Clallam County. If any claim, at law or otherwise, is made by either party to this contract, the prevailing party shall be entitled to its costs and reasonable attorney fees incurred thereby.

12. GENERAL

This contract represents the entire agreement between the parties hereto and a final expression of their agreement, and supersedes all prior agreements, representations, understandings or negotiations with respect to the matters covered by this contract. If any term, provision, condition or covenant of this contract is held to be invalid, void, or unenforceable, the rest of the contract shall remain in full force and effect and shall in no way be affected, impaired, or invalidated. Neither this contract nor any rights or obligations hereunder shall be assigned or otherwise transferred by the Vendor without the prior written consent of the District.

13. TERMINATION OF CONTRACT

In the event that any of the provisions of this Contract are violated by the Vendor or by any of the Vendor's subcontractors, the District may serve written notice of intention to terminate such Contract upon the Vendor, which notice shall specify the reasons therefore. Unless within ten (10) days after serving such notice upon the Vendor such violation shall cease and an arrangement for the correction thereof satisfactory to the District be made, the Contract shall, upon the expiration of the said ten (10) days, cease and terminate. In the event of any such termination, the District may purchase the Materials necessary for complete performance of this Contract for the account and at the expense of the Vendor, and the Vendor shall be liable to the District for any excess cost occasioned thereby.

14. DEFECTS ARISING IN ONE YEAR AND REMEDIES

- a. The Vendor shall be responsible for correcting all defects in workmanship and material within one (1) year after acceptance of this work. When corrections of defects are made, Vendor shall be responsible for correcting all defects in workmanship and/or materials in the corrected work for one (1) year after acceptance of the corrections by the District. The Vendor shall start work to remedy such defects within seven (7) days of mailing notice of discrepancy thereof by District and shall complete such work within a reasonable time. In emergencies where damage may result from delay or where loss of service may result, such corrections may be made by the District, in which case the cost shall be borne by the Vendor. In the event the Vendor does not accomplish corrections at the time specified, the work will be otherwise accomplished, and the cost of same shall be paid by the Vendor.
- b. The Vendor shall be responsible for any expenses incurred by the District resulting from defects in the Vendor's work, including actual damages; cost of materials and labor expended by District in making emergency repairs; and cost of engineering, inspection, and supervision by District.

Vendor _____

By _____

Title _____

Dated _____

PUBLIC UTILITY DISTRICT NO. 1
OF CLALLAM COUNTY

By _____
Doug Nass, General Manager

Dated _____

SAMPLE