



## PRELIMINARY AGENDA FOR REGULAR MEETING

April 3, 2024

### **I. EXECUTIVE SESSION**

**11:30 AM**

A. One Matter Related to Personnel Evaluation-

**RCW 42.30.110(1)(c)**

### **II. OPEN SESSION**

**12:00 PM**

Pledge of Allegiance

### **PUBLIC COMMENT**

Speakers are asked to keep their comments to less than 3 minutes. Please feel free to submit comments in writing to the Chief Executive Officer.

### **CONSENT ITEMS**

All matters listed under Consent Items have been distributed to each member of the Commission for review, are considered routine, and will be enacted by the motion of the Commission with no separate discussion. If a separate discussion is desired, that item may be removed from the Consent Items and placed under Action Items by request.

B. Approval of Minutes of the Regular Meeting on March 20, 2024

C. Approval of Checks

D. Grove Solar Contract

E. Admin Solar Contract

### **NEW BUSINESS/DISCUSSION ITEMS**

F. American Cruise Lines Docking Agreement- CEO David Ripp

### **PUBLIC COMMENT**

Speakers are asked to keep their comments to less than 3 minutes. Please feel free to submit comments in writing to the Chief Executive Officer.

### **STAFF REPORTS & COMMENTS**

### **COMMISSIONER REPORTS & DISCUSSION**

### **ADJOURN REGULAR MEETING**

### **Regular business and meetings that members of the Commission may attend:**

Date

Meeting

April 18, 2024

WSU Sustainable Landscaping Presentation 2 pm



April 19, 2024

Port Earth Day Event 2 pm-4 pm

(\*Denotes events in which two (2) or more Commissioners may attend)

Join the meeting on the Conference Call Line: (253) 215-8782

Meeting ID: 829 0393 6339, Password: 154722 or via this video link:

<https://us06web.zoom.us/j/82903936339?pwd=U01pdWY1V0tES3dMZWFKNjJNbUNVZz09>

## **MINUTES OF THE REGULAR COMMISSION MEETING**

### **PORT OF CAMAS-WASHOUGAL**

**March 20, 2024**

By: Mackenzey Thomason, Administrative Assistant

A Regular Meeting of the Commissioners of the Port of Camas-Washougal was held in person and virtually on Wednesday, March 20th, 2024, at 12 p.m. A workshop was held before the regular meeting at 11 am to discuss the Port of Vancouver and their sustainability projects.

PRESENT: Commissioner Cassi Marshall, Commissioner Larry Keister, Commissioner John Spencer, Chief Executive Officer David Ripp, Director of Finance Krista Cagle, Environmental Project Manager Jennifer Taylor, Director of Business Development & Real Estate Derek Jaeger, Director of Facilities Eric Plantenberg, Attorney Carolyn Lake, Administrative Assistant Mackenzey Thomason, and members of the press and public. The public has access through a designated Zoom conference call line or video link.

At 12:00 p.m. following the Pledge of Allegiance, Commissioner Keister called to open the Regular Session public meeting to order. This meeting is video recorded, and the chat function has been disabled.

#### **PUBLIC COMMENT #1:**

No comment.

#### **CONSENT ITEMS**

##### **Minutes & Checks**

Minutes from the Regular Meeting on March 6, 2024, electronic payments and the issuance of general fund checks 9405-9434 and printed check 50164 in the total amount of \$179,834.83, the Vega Lease and Resolution 5-24 Authorization of Vessel by Public Auction were presented for approval. After a brief discussion, a motion was made by Commissioner Spencer and seconded by Commissioner Marshall, and the consent items were carried unanimously.

#### **PUBLIC COMMENT #2:**

No comment.

#### **STAFF REPORTS & COMMENTS**

##### **Chief Executive Officer-**

Ripp stated during past meetings commission and staff discussed constructing a potential pathway between 54-40 Brewing and Recluse Brew Works in the industrial park. Ripp stated the Port staff had confirmed that no permits would be required for this project until it was discovered by the City that Piller Plastics had completed a wetland study in 2012 and the area the pathway would potentially be constructed on is adjacent to Piller's property. Ripp stated if the Port chooses to move forward with this project, a cost estimate would be necessary to complete the wetland study. Ripp also mentioned that he had met with the City of Camas to discuss the urban growth boundary. Ripp explained the city feels a better approach to the Port's request is for the Port to request everything around the site to be listed on the urban reserve and the Airport into the urban growth boundary. Ripp stated the Port has been tentatively awarded grant funding to install a level-3

charger to be used at the Airport. Staff and Commission spoke about how to draw awareness to the charger's new location if the grant is awarded. Ripp stated the Community Solar ribbon cutting event will be on March 27<sup>th</sup> at 2 pm. Ripp also mentioned that the CEO position for the Port has been posted and so far, there have been 15 applicants.

**Director of Business & Real Estate-**

Jaeger explained that on April 28<sup>th</sup> Recluse Brew Works will hold a Fun Run 5k event. Jaeger also explained that he is going to send out a notice to all tenants in the industrial park regarding the food carts at Recluse Brew Works. Jaeger mentioned that he had attended the Washougal Business Association meeting yesterday and they spoke about how the Port and Schools can help each other.

**Director of Facilities-**

Plantenberg explained he is working on getting permits for the expansion of the IP shop property. Plantenberg stated his crew is working on repairing the concrete path at Washougal Waterfront Park.

**COMMISSIONER REPORTS & DISCUSSION**

**Commissioner Marshall**

Commissioner Marshall stated she had been attending the meetings that CPU has been holding and it was nice to discuss new things that brought in different crowds.

**Commissioner Keister**

Commissioner Keister stated he would like to support the new food truck, the "Shoug Shack" at Washougal High School.

The regular meeting adjourned at 12:26 pm.

PORT OF CAMAS-WASHHOUGAL COMMISSION

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Commissioners

## Port of Camas-Washougal Staff Report

**Department:** Projects

**Date:** April 3, 2024

**Staff Recommendation:** Approval of the Administrative Building Solar Project Contract with Power Northwest for \$102,486.00.

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**Summary:**

This project proposes to install solar power with battery backup at the Port of Camas-Washougal's Administrative Building. The Washington State Department of Commerce (DOC) will provide funding through the Solar plus storage for Resilient Communities grant. The purpose of this grant is to increase the deployment of solar and battery storage systems in community buildings that will enhance grid resilience and provide backup power for critical needs.

Bids were solicited for this project using the Port's small works roster procurement process. Power Northwest was the lowest responsible bidder.

**Budget Impact:**

DOC will provide grant funding for this project with a 30% Port match that was included in the 2024 Capital Budget. The Power Northwest construction project bid amount is \$102,486.00. Additional project savings were realized by using Washington State's solar energy system sales tax exemption.

**Sustainability Implications:**

The installation of solar power with a battery backup at the Administrative Building affirms the Port's commitment to sustainability while ensuring that critical Port functions remain operable during emergencies and power outages. An interconnection agreement will be developed between the Port and Clark Public Utilities.

**Diversity Equity and Inclusion Implications:**

A Diverse Business Inclusion Plan was developed for this project in accordance with legislative findings and policies set forth in RCW 39.19, the state of Washington encourages participation in all contracts by firms certified by the office of Minority and Women's Business Enterprises (OMWBE), set forth in RCW 43.60A.200 for firms certified by the Washington State Department of Veterans Affairs, and set forth in RCW 39.26.005 for firms that are Washington Small Businesses.

Project goals are as follows:

Certification Category	Project Goal	Power Northwest Goal
OMWBE	2%	6.4%
Veteran Owned Business	2%	2%
Small Business	10%	1.6%



## PUBLIC WORKS CONTRACTUAL AGREEMENT

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This contract is made and entered into by and between the Port of Camas-Washougal, hereinafter referred to as the “PORT”, and the below named firm, hereinafter referred to as “CONTRACTOR”.

Name (Contractor): POWER NORTHWEST INC

Project Name: GROVE FIELD SOLAR PROJECT

Mailing Address: 2711 NW Saint Helens Rd., City, State, Zip Portland, OR 97210

Phone: 503-304-4357

SSN # or Tax ID #: 84-4119864 WA State UBI Business Number: 604-648-194

In consideration of the commitments and conditions contained herein, including those set forth in Attachment “A” and any Exhibits hereto, incorporated herein as though fully set forth, the PORT and CONTRACTOR do agree as follows:

**PURPOSE:** Installation of two rooftop mounted solar with battery backup systems.

**SCOPE OF WORK:** See Attached

### **PERIOD OF PERFORMANCE**

The period of performance under this contract will be from April 17, 2024, or date of execution, whichever is later, through October 15, 2024.

### **TERMINATION**

The effective dates of this Agreement are as specified. Anything to the contrary herein notwithstanding, PORT or CONTRACTOR may terminate this agreement on 30 days prior written notice to the other party. In the event of termination, all finished and unfinished work prepared by the CONTRACTOR pursuant to this Contract shall be provided to the PORT. In the event the PORT terminates this Contract prior to completion without cause, the CONTRACTOR may complete such analyses and records as may be necessary to place its files in order, and as mutually agreed to by the parties. The CONTRACTOR shall be entitled to receive just and

equitable compensation for satisfactory work completed prior to the date of termination, not to exceed the total compensation set forth herein.

## **COMPENSATION**

1. As full compensation for the performance of its obligations of this Agreement and the services to be provided, the PORT shall pay CONTRACTOR the maximum amount as specified in this Agreement. Such payment shall be the total compensation for all work performed under this Agreement, including but not limited to all labor, materials and supplies, incidental expenses, subcontractor's fees, reimbursable expenses, and equipment expenses.

2. This will be accomplished on a Lump Sum Basis and will not exceed \$219,966.00, without prior written approval from the Port.

3. To be eligible for payment, CONTRACTOR shall submit detailed numbered invoices showing description of work items being invoices, work order number, title of project, total authorized, total current invoice, and balance of authorization. All invoices shall note "Prevailing wages have been paid in accordance with the approved Intent." Invoices shall be sent directly to the attention of Accounts Payable, at 24 South A Street, Washougal, WA 98671. Payment shall be made through the Port's ordinary payment process and shall be considered timely if made within 30 days of receipt of a properly completed invoice.

4. The PORT may withhold payment to the CONTRACTOR for any work not completed to the PORT'S satisfaction, until such time as the CONTRACTOR modifies such work to the satisfaction of the PORT.

5. All payments shall be subject to adjustment for any amounts, upon audit or otherwise, determined to have been improperly invoiced.

6. In the event CONTRACTOR incurs cost in excess of the sum stated above, CONTRACTOR shall pay such excess from its own funds, and the PORT shall not be required to pay any part of such excess, and CONTRACTOR shall have no claim against the PORT on account thereof.

7. Prevailing wages must be paid, rates are published on the Department of L&I's website at: <https://www.lni.wa.gov/licensing-permits/public-works-projects/prevailing-wage-rates/>. The project will be performed in Clark County. The Port also has a hard copy of the rates available upon request. Per RCW 39.12 Section 5 (2) a copy of certified payroll records shall be filed with the Department of L&I using its online system.

## **RETAINAGE**

[ X ] Retainage Held by Port: Contractor specifically acknowledges that five percent (5%) of all payments that would otherwise be payable to Contractor shall be subject to retainage pursuant to the requirements of RCW 60.28.011. Upon the completion of the work by Contractor under the terms of this agreement and upon final approval and acceptance of contractor's work and materials by the Port, the Port will make final payment to Contractor of the balance due Contractor under the terms of this agreement within thirty (30) days after the Port has received (1) an "Affidavit of Wages Paid" by Contractor, attesting to the fact that all

subcontractors/suppliers have been paid and (2) receipt by the Port of authorization from the Washington State Department of Revenue and Employment Security to release the retainage.

[ ] Retainage Bond: Contractor shall, at the time of delivery of this contract, furnish a duly executed retainage bond upon such form as is furnished or approved by the Port, signed by an approved surety or sureties authorized to do business in the State of Washington. Such bond shall provide that the surety or sureties will agree to protect and indemnify the Port against any direct or indirect loss that shall be suffered or claimed by reason of the failure of the Contractor to pay all laborers, mechanics, subcontractors, agents, material men, and all persons who shall supply such Contractor, subcontractor or agents with provisions or supplies for carrying on such work.

## CHANGE ORDERS

A Change Order is a written order signed by the PORT and the CONTRACTOR and issued after execution of the Contract, authorizing a change in the Work and/or adjustment in the date of contract closing. The amount of the Contract and the closing date can be changed only by Change order. The PORT, without invalidating the Contract, may order changes in the Work within the general scope of the Contract consisting of additions, deletions or other revisions, and the amount of the Contract shall be adjusted accordingly. Any addition or deletion requiring an adjustment to the cost or date of the contract must be approved by both parties by change order prior to execution.

## PERFORMANCE BONDS:

CONTRACTOR shall, at the time of delivery of this contract, furnish duly executed bonds, upon forms furnished or approved by the PORT, signed by an approved surety or sureties authorized to do business in the State of Washington, in the full amount of the contract price plus change orders, conditioned upon the faithful performance of the contract by the CONTRACTOR within the time prescribed therein. Such bond shall provide that the surety or sureties will agree to protect and indemnify the PORT against any direct or indirect loss that shall be suffered or claimed by reason of any or all of the following:

- A. The failure of the CONTRACTOR or any of the CONTRACTOR'S employees, subcontractors or agents to faithfully perform the said contract, or
- B. The failure of the CONTRACTOR to pay all laborers, mechanics, subcontractors, agents, material men, and all persons who shall supply such CONTRACTOR, subcontractor or agents with provision or supplies for carrying on such work.

At any time and as often as may be deemed necessary, the PORT may require any or all sureties or any surety company to appear and qualify themselves upon the bond. Whenever such surety or sureties are deemed by the PORT to have become insufficient, the PORT may demand in writing that the CONTRACTOR furnish additional surety in an amount not exceeding that originally required as may be deemed necessary considering the work remaining to be done. No

further payments will be made on the contract until such additional surety as required is furnished.

**PORT OF CAMAS-WASHOUGAL**

By

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Date

**POWER NORTHWEST INC**

By

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Date

## Attachment A

### Standard Terms

#### **1. Representatives**

The Port's Project Manager and Contractor's Representative for this Agreement are as specified. Alternate representatives may be appointed by either party with written notice to the other party.

#### **2. Key Personnel**

The Contractor's key personnel, as described in Contractor's selection submittals, shall remain assigned for the duration of the Project unless otherwise agreed to by the Port.

#### **3. Contract Administration, Records, and Right to Audit**

All communications with the Port will be through the Port's Project Manager. The Project Manager shall provide Contractor with all information and documents pertinent to the services Contractor is to perform.

Until the expiration of six years after the term of this Agreement, Contractor agrees to maintain accurate records of all work done in providing services specified by the Agreement and to deliver such records to the Port upon termination of the Agreement or otherwise as requested by the Port.

Upon the Port's request, Contractor shall make available to the Port all accounts, records, and documents related to the Scope of Work for the Port's inspection, auditing, or evaluation during normal business hours as reasonably needed by the Port to assess performance, compliance, and/or quality assurance under this Agreement.

#### **4. Relationship of Parties**

Contractor, is and shall be at all times during the term of this Contract, an independent Contractor, and not an employee of the Port. Nothing contained herein shall be deemed to create a relationship of employer and employee or of principal and agent.

This Agreement shall be for the sole benefit of the parties hereto, and nothing contained herein shall create a contractual relationship with, or create a cause of action in favor of, a third party against either party hereto.

#### **5. Conflict of Interest**

No officer, employee or agent of the Port who exercises any function or responsibilities in connection with the planning and carrying out of the program to which this Agreement pertains, nor any member of the immediate family of any such officer, employee or agent shall have any personal financial interest, direct or indirect, in this Agreement, either in fact or in appearance. Contractor further covenants that in performance of this Agreement, no person having any such interest shall be employed.

#### **6. Compliance with Laws**

Contractor shall, during the term of this Agreement, comply with all local, state, tribal and federal laws and regulations applicable to the project, including building codes, environmental protections, and permitting regulations existing at the time this Agreement was executed and those regarding employee safety, health, the work place environment, and employment eligibility verifications as required by the Immigration and Naturalization Service.

Contractor certifies that it has, or shall obtain prior to starting work under this Agreement, all licenses, registrations, permits and/or any other authorization required under federal, state, local or tribal law to perform the work as defined in this Agreement. Contractor agrees to indemnify and hold the Port harmless from and against any claims or demands made or brought against the Port and for costs (including, but not limited to attorneys' fees and costs), the Port incurs due to the Contractor's failure to: (1) comply with all applicable laws and regulations, and/or (2) have or maintain the required licenses, registrations, permits and/or other authorizations, as required by this Agreement.

In the event Contractor fails to pay any taxes, assessments, penalties, or fees imposed by any governmental body, including a court of law, then Contractor authorizes the Port to deduct and withhold or pay over to the appropriate governmental body those unpaid amounts upon demand made to the Port by the governmental body. Any such payments shall be deducted from Contractor's total compensation.

The Port shall furnish Contractor with the information required by the Hazard Communication standard for materials preexisting on the project site. Contractor will ensure that this information is made available to the Contractor's personnel and subcontractors, and incorporated into the contract documents as appropriate.

#### **7. Ownership of Work**

The services to be performed by Contractor shall be deemed instruments of service for purposes of the copyright laws of the United States. The Port has ownership rights to the plans, specifications, and other products prepared by the Contractor. Contractor shall not be responsible for changes made in the plans, specifications or other products by anyone other than the Contractor. Contractor shall have free right to retain, copy and use any tangible materials or information produced but only for its own internal purposes. Use of documents or other materials prepared under this Agreement for promotional purposes shall require the Port's prior consent.

8. **Standard of Care**

Contractor shall perform its work to conform to generally accepted professional standards. Contractor shall be responsible for the professional quality, technical adequacy and accuracy, timely completion and coordination of all plans, designs, drawings and specifications prepared under this Agreement. Contractor shall, without additional compensation, correct or revise any errors or omissions in such work.

9. **Disclosure**

All information developed by the Contractor and all information made available to the Contractor by the Port, and all analyses or opinions reached by the Contractor shall be confidential and shall not be disclosed by the Contractor without the written consent of the Port.

10. **Deliverables**

All tangible materials produced as a result of this Agreement shall be prepared as specified by the Port's Project Manager. Delivery of materials produced shall consist both of the tangible materials and one copy of any computer file used in the creation of the tangible product on floppy disk or CD-Rom in a PDF format or other format specified by the Port. Deliverable drawings shall be prepared in accordance with the Port's "Contractor Drawing Submittal Procedure" and "Technical Specification Development Procedure". The Port may offset from the Contractor's fee expenses incurred by the Port in correcting drawings or specifications not prepared in accordance with the Port's procedure.

11. **Indemnification**

Contractor shall indemnify, defend, and hold harmless the Port, its officials, officers, agents, and employees from any and all claims, damages, lawsuits, liabilities, losses, liens, expenses and costs arising out of the subject matter of this Agreement; provided that this provision shall not apply to the extent that damage or injury results from the fault of the Port, or its officers, agents, or employees. The term "fault" as used herein shall have the same meaning as set forth in RCW 4.22.015, as that statute may be amended.

Should a court of competent jurisdiction determine that this Agreement is subject to RCW 4.24.115, then, in the event of liability for damages arising out of bodily injuries or damages to property caused by or resulting from the concurrent negligence of the Contractor and the Port, its officers, officials, employees and volunteers, the Contractor's liability hereunder shall be only to the extent of the Contractor's negligence.

It is further specifically and expressly understood that the indemnification provided herein constitutes the Contractor's waiver of immunity under Industrial Insurance, Title 51 RCW, solely for the purposes of this indemnification.  
**CONTRACTOR RECOGNIZES THAT THIS WAIVER WAS THE SUBJECT OF MUTUAL NEGOTIATION**

The indemnification shall extend to and include attorney's fees and the cost of establishing the right of indemnification hereunder in favor of the Port. This indemnification shall survive the termination of this Agreement.

12. **Insurance**

Contractor shall obtain and keep in force during the terms of the Agreement, or as otherwise required, the following insurance with companies or through sources approved by the State Insurance Commissioner pursuant to RCW 48.

- a. Worker's Compensation and Employer's Liability insurance as required by the State.
- b. Commercial General Liability insurance in the amount of at least \$1,000,000 per occurrence; \$2,000,000 general aggregate.
- c. Automobile Public Liability Insurance coverage with total liability limits for Bodily Injury Liability and Property Damage Liability in the amount of \$1,000,000 per accident.
- d. All policies shall be issued by a company having an A. M. Best rating of A:VI or better. Each insurance policy shall be endorsed to state that coverage shall not be suspended, voided, canceled or reduced in coverage or limits except after 45 days prior written notice has been given to the Port. The Port shall be named as an additional insured on all policies on ISO Form CG 20 10 Form B. The certificates of insurance shall specify the project name, project number, and contract number.
- e. The Contractor must furnish the Port with verification of insurance and endorsements prior to any release of funds.
- f. Contractor shall ensure that each subconsultant of every tier obtain at a minimum the same insurance coverage and limits as stated herein for the Contractor. Upon request from the Port, the Contractor shall provide evidence of such insurance.

13. **Competitive Specification**

If the scope of work includes development of specifications:

Contractor shall provide for the maximum use of materials, equipment, construction methods and products that are readily available through competitive procurement, or through standard or proven production techniques.

Contractor shall not produce a design or specification which would be restrictive or written in a manner as to contain proprietary requirements other than those based on performance, unless such requirements are necessary to demonstrate a

specific outcome or to provide for necessary interchangeability of parts and equipment. Contractor shall justify in writing the use of any sole source. Where brand names are identified, they shall be followed by the salient product performance characteristics and the words "or approved equal" so that comparable quality or utility may be determined.

14. Time

Time is of the essence in the performance by the Contractor of the services required by this Agreement. The Contractor shall complete its services within the milestones set forth in the project schedule. At the end of each month the Contractor shall submit a copy of the current schedule and a written narrative description of the work accomplished, identifying scheduled milestones and the status thereof. The Contractor shall also address issues, which may result in completion beyond the established schedule or budget.

If the time allotted for completion of Contractor's services is exceeded through no fault of Contractor, additional time to complete performance may be allowed if written notice of the cost and estimated length of the delay is given to the Port within forty-eight (48) hours of Contractor's learning of the delay. Contractor will provide such additional supporting data as the Port may require in a timely manner. The sole remedy in the event of a delay, whatever its cause, is an extension of time for performance.

The Port may suspend this Agreement, at its sole discretion, upon one week's advance notice to Contractor. Such notice shall indicate the anticipated period of suspension. Any reimbursement for expenses incurred due to the suspension shall be limited to Contractor's reasonable expenses, and shall be subject to verification. Contractor shall resume performance of services under this Agreement without delay when the suspension period ends

15. Assignability

Contractor shall not assign any interest in this Agreement and shall not transfer any interest in the Agreement to any party without prior written consent of the Port.

16. Disputes

If a dispute arises relating to this Agreement and cannot be settled through direct discussions, the parties agree to endeavor to settle the dispute through a mediation firm acceptable to both parties, the cost of which shall be divided equally. The Port reserves the right to join any dispute under this Agreement with any other claim in litigation or other dispute resolution forum, and the Contractor agrees to such joinder, so that all disputes related to the project may be consolidated and resolved in one forum. Venue for any litigation shall be the Clark County Superior Court of the state of Washington and the prevailing party shall be entitled to recover its costs and reasonable attorney's fees.

17. Non-Discrimination

During the term of this Agreement, the Contractor shall not create barriers to open and fair opportunities to participate in Port contracts or to obtain or compete for contracts and subcontracts as sources of supplies, equipment, construction and services. During the performance of this Agreement, neither the Contractor nor any party subcontracting under the authority of this Agreement shall discriminate nor tolerate harassment on the basis of race, color, sex, religion, nationality, creed, marital status, sexual orientation, age, or the presence of any sensory, mental, or physical disability in the employment or application for employment or in the administration or delivery of services or any other benefits under this Agreement.

The selected Contractor shall comply fully with all applicable federal, state and local laws, ordinances, executive orders and regulations that prohibit such discrimination including RCW Chapter 49.60. The Contractor further agrees to comply with all applicable civil rights statutes and implementing regulations.

The Contractor shall cause the foregoing provision to be inserted in all subcontracts for any work covered by this Agreement so that such provisions shall be binding upon such third parties,

18. Safety.

Contractor expressly agrees that it shall be solely responsible for supervising its employees, that it shall comply with all rules, regulations, orders, standards and interpretations promulgated pursuant to the Occupational Safety and Health Act of 1970 [and to the Occupational and Safety Health Act of the State of Washington, including but not limited to training, provision of personal protective equipment, adherence to all appropriate lock out/tag out procedures, and providing all notices, material safety data sheets, labels, etc. required by the right-to-know standard.

19. Governing Law and Venue.

Washington law shall govern the interpretation of this Agreement. Clark County shall be the venue of any mediation, arbitration or litigation arising out of this Agreement.

20. Waiver.

A waiver of failure by either party to enforce any provision of this Agreement shall not be construed as a continuing waiver of such provision(s), nor shall the same constitute a waiver of any other provision of this Agreement.

21. Severability and Survival.

If any term, condition or provision of this Agreement is declared void or unenforceable or limited in its application or effect, such event shall not affect any other provisions hereof and all other provisions shall remain fully enforceable. The provisions of this Agreement, which by their sense and context are reasonably intended to survive completion, expiration or cancellation of this Agreement, shall survive termination of this Agreement.

22. Equal Opportunity to Draft.

The parties have participated and had an equal opportunity to participate in the drafting of this Agreement, and the Exhibits, if any, attached. No ambiguity shall be construed against any party upon a claim that that party drafted the ambiguous language.

23 Captions.

The captions used herein are for convenience only and are not a part of this Agreement and do not in any way limit or amplify the terms and provisions hereof.

24. Concurrent Originals.

This Agreement may be signed in counterpart originals.

25. Entire Agreement.

This Agreement represents the entire and integrated understanding between the Port and Contractor and may be amended only by written instrument signed by both the Port and Contractor. All previous or contemporaneous agreements, representations or promises and conditions relating to the subject matter of this Agreement are superseded hereby.

26. Authority to Enter Into This Agreement

The undersigned Contractor representative, by his/her signature below, represents and warrants that he/she is duly authorized to execute this legally binding Agreement for and on behalf of Contractor and further represents and warrants that he/she acknowledges reading this Agreement, understands it and agrees to be bound by its Terms and Conditions.

## **Program Specific Terms and Conditions**

As identified herein, notwithstanding General Terms and Conditions Sections, the following Program Specific Terms and Conditions take precedence over any similarly referenced Special or General Terms and Conditions:

### **1. SUBCONTRACTING (REPLACES GENERAL TERMS AND CONDITIONS #37)**

The Grantee shall maintain written procedures related to subcontracting, as well as copies of all subcontracts and records related to subcontracts. For cause, COMMERCE in writing may: (a) require the Grantee to amend its subcontracting procedures as they relate to this Agreement; (b) prohibit the Grantee from subcontracting with a particular person or entity; or (c) require the Grantee to rescind or amend a subcontract.

Every subcontract shall bind the Subcontractor to follow all applicable terms of this Agreement. The Grantee is responsible to COMMERCE if the Subcontractor fails to comply with any applicable term or condition of this Agreement. The Grantee shall appropriately monitor the activities of the Subcontractor to assure fiscal conditions of this Agreement. In no event shall the existence of a subcontract operate to release or reduce the liability of the Grantee to COMMERCE for any breach in the performance of the Grantee's duties.

Every subcontract shall include a term that COMMERCE and the State of Washington are not liable for claims or damages arising from a Subcontractor's performance of the subcontract.

### **2. TREATMENT OF ASSETS (REPLACES GENERAL TERMS AND CONDITIONS #43)**

The parties do not anticipate that Commerce will furnish property (other than the state funds granted herein) to Grantee for use in Grantee's performance under this Agreement; provided, however, that title to any other property that may be so furnished by Commerce shall remain in Commerce. Commerce claims no ownership for the materials, goods, or services purchased by the Grantee for the completion of this Agreement, regardless of reimbursement status under this agreement.

- A. Any property of Commerce furnished to the Grantee shall, unless otherwise provided herein or approved by Commerce, be used only for the performance of this agreement.
- B. The Grantee shall be responsible for any loss or damage to property of Commerce that results from the negligence of the Grantee or which results from the failure on the part of the Grantee to maintain and administer that property in accordance with sound management practices.
- C. If any Commerce property is lost, destroyed or damaged, the Grantee shall immediately notify Commerce and shall take all reasonable steps to protect the property from further damage.
- D. The Grantee shall surrender to Commerce all property of Commerce prior to settlement upon completion, termination or cancellation of this agreement

All reference to the Grantee under this clause shall also include Grantee's employees, agents or subcontractors.

### **3. SOLAR PLUS STORAGE FOR RESILIENT COMMUNITIES GRANT REQUIREMENTS**

Grantee agrees to comply with the requirements and follow the guidelines as outlined in the Request for Applications dated March 2023 (the "RFA"), incorporated by this reference as if fully set forth herein. In the event of conflict between the RFA and the agreement, the Agreement prevails.

### **4. REPORTING REQUIREMENTS**

During the construction phase of the Scope of Work, the Grantee must provide quarterly written reports to Commerce for project update purposes. Quarterly reports are due no later than 15 days after the end of each quarter for the quarter to be reported. The report form will be provided by Commerce. The intent is to collect a description of the project activity that occurred during the period, including but not limited to:

- a. A narrative summarizing project activities, risks and issues mitigated, and lessons learned;
- b. The project milestones met to date and anticipated in the subsequent quarter;
- c. Any additional metrics required from the capital budget proviso, legislature, governor's office, or Commerce;
- d. Quarterly updated budget projections for project expenditures;
- e. The grant expenditures to date and anticipated in the next quarter.

## **5. UNILATERAL AMENDMENT**

Commerce may, at any time, by written notification to the Contractor, unilaterally amend the scope of work to be performed under this Contract, the period of performance, and/or the contract amount and budget. These unilateral changes shall be effective as set forth in the amendment or upon signature by Commerce, if no date has been set forth.

The Contractor will be deemed to have accepted any such unilateral amendment unless, within fifteen (15) calendar days after the date the amendment is signed by Commerce, the Contractor notifies Commerce in writing of its non-acceptance of such unilateral change. The Contractor and Commerce will then use good faith efforts to negotiate an amendment acceptable to both parties.

Failure to reach agreement shall constitute a dispute concerning a question of fact within the meaning of the Disputes provision contained in this Contract. However, nothing in this provision shall excuse the Contractor from proceeding with the Contract as amended. Contractor must continue to provide the contracted services, including any unilaterally amended services, during any period of non-acceptance or negotiation of a unilateral amendment.

## **Special Terms and Conditions**

### **1. AUTHORITY**

COMMERCE and Contractor enter into this Contract pursuant to the authority granted by Chapter 39.34 RCW.

### **2. CONTRACT MANAGEMENT**

The Representative for each of the parties shall be responsible for and shall be the contact person for all communications and billings regarding the performance of this Contract.

The Representative for COMMERCE and their contact information are identified on the Face Sheet of this Contract.

The Representative for the Contractor and their contact information are identified on the Face Sheet of this Contract.

### **3. COMPENSATION**

COMMERCE shall pay an amount not to exceed \$61,800 for the performance of all things necessary for or incidental to the performance of work under this Contract as set forth in the Scope of Work. Contractor's compensation for services rendered shall be based on the schedule set forth in Attachment B: Budget.

### **4. BILLING PROCEDURES AND PAYMENT**

COMMERCE will pay Contractor upon acceptance of services provided and receipt of properly completed invoices, which shall be submitted to the Representative for COMMERCE via the Commerce Contracts Management System.

If required, the attachments to the invoice request in the Commerce Contracts Management System shall describe and document, to COMMERCE's satisfaction, a description of the work performed, the progress of the project, and fees. The invoice shall include the Contract Number 23-53701-228.

Payment shall be considered timely if made by COMMERCE within thirty (30) calendar days after receipt of properly completed invoices. Payment shall be sent to the address designated by the Contractor.

COMMERCE may, in its sole discretion, terminate the Contract or withhold payments claimed by the Contractor for services rendered if the Contractor fails to satisfactorily comply with any term or condition of this Contract.

No payments in advance or in anticipation of services or supplies to be provided under this Agreement shall be made by COMMERCE.

#### Invoices and End of Fiscal Year

Invoices are due on the 20th of the month following the provision of services.

Final invoices for a state fiscal year may be due sooner than the 20th and Commerce will provide notification of the end of fiscal year due date.

The Contractor must invoice for all expenses from the beginning of the contract through June 30, regardless of the contract start and end date.

#### Duplication of Billed Costs

The Contractor shall not bill COMMERCE for services performed under this Agreement, and COMMERCE shall not pay the Contractor, if the Contractor is entitled to payment or has been or will be paid by any other source, including grants, for that service.

### Disallowed Costs

The Contractor is responsible for any audit exceptions or disallowed costs incurred by its own organization or that of its subcontractors.

COMMERCE may, in its sole discretion, withhold ten percent (10%) from each payment until acceptance by COMMERCE of the final report (or completion of the project, etc.).

## **5. SUBCONTRACTOR DATA COLLECTION**

Contractor will submit reports, in a form and format to be provided by Commerce and at intervals as agreed by the parties, regarding work under this Contract performed by subcontractors and the portion of Contract funds expended for work performed by subcontractors, including but not necessarily limited to minority-owned, woman-owned, and veteran-owned business subcontractors. "Subcontractors" shall mean subcontractors of any tier.

## **6. HISTORICAL OR CULTURAL ARTIFACTS**

Prior to approval and disbursement of any funds awarded under this Contract, Contractor shall complete the requirements of Governor's Executive Order 21-02, where applicable, or Contractor shall complete a review under Section 106 of the National Historic Preservation Act, if applicable. Contractor agrees that the Contractor is legally and financially responsible for compliance with all laws, regulations, and agreements related to the preservation of historical or cultural resources and agrees to hold harmless COMMERCE and the state of Washington in relation to any claim related to such historical or cultural resources discovered, disturbed, or damaged as a result of the project funded by this Contract.

In addition to the requirements set forth in this Contract, Contractor shall, in accordance with Governor's Executive Order 21-02 coordinate with Commerce and the Washington State Department of Archaeology and Historic Preservation ("DAHP"), including any recommended consultation with any affected tribe(s), during Project design and prior to construction to determine the existence of any tribal cultural resources affected by Project. Contractor agrees to avoid, minimize, or mitigate impacts to the cultural resource as a continuing prerequisite to receipt of funds under this Contract.

The Contractor agrees that, unless the Contractor is proceeding under an approved historical and cultural monitoring plan or other memorandum of agreement, if historical or cultural artifacts are discovered during construction, the Contractor shall immediately stop construction and notify the local historical preservation officer and the state's historical preservation officer at DAHP, and the Commerce Representative identified on the Face Sheet. If human remains are uncovered, the Contractor shall report the presence and location of the remains to the coroner and local enforcement immediately, then contact DAHP and the concerned tribe's cultural staff or committee.

The Contractor shall require this provision to be contained in all subcontracts for work or services related to the Scope of Work attached hereto.

In addition to the requirements set forth in this Contract, Contractor agrees to comply with RCW 27.44 regarding Indian Graves and Records; RCW 27.53 regarding Archaeological Sites and Resources; RCW 68.60 regarding Abandoned and Historic Cemeteries and Historic Graves; and WAC 25-48 regarding Archaeological Excavation and Removal Permit.

Completion of the requirements of Section 106 of the National Historic Preservation Act shall substitute for completion of Governor's Executive Order 21-02.

In the event that the Contractor finds it necessary to amend the Scope of Work the Contractor may be required to re-comply with Governor's Executive Order 21-02 or Section 106 of the National Historic Preservation Act.

## **7. INSURANCE**

Each party certifies that it is self-insured under the State's or local government self-insurance liability program, and shall be responsible for losses for which it is found liable.

## **8. FRAUD AND OTHER LOSS REPORTING**

Contractor shall report in writing all known or suspected fraud or other loss of any funds or other property furnished under this Contract immediately or as soon as practicable to the Commerce Representative identified on the Face Sheet.

## **9. ORDER OF PRECEDENCE**

In the event of an inconsistency in this Contract, the inconsistency shall be resolved by giving precedence in the following order:

- Applicable federal and state of Washington statutes and regulations
- Attachment C – Proviso
- Program Specific Terms and Conditions
- Special Terms and Conditions
- General Terms and Conditions
- Attachment A – Scope of Work
- Attachment B – Budget

## **General Terms and Conditions**

### **1. DEFINITIONS**

As used throughout this Contract, the following terms shall have the meaning set forth below:

- A.** "Authorized Representative" shall mean the Director and/or the designee authorized in writing to act on the Director's behalf.
- B.** "COMMERCE" shall mean the Washington Department of Commerce.
- C.** "Contract" or "Agreement" or "Grant" means the entire written agreement between COMMERCE and the Contractor, including any Attachments, documents, or materials incorporated by reference. E-mail or Facsimile transmission of a signed copy of this contract shall be the same as delivery of an original.
- D.** "Contractor" or "Grantee" shall mean the entity identified on the face sheet performing service(s) under this Contract, and shall include all employees and agents of the Contractor.
- E.** "Personal Information" shall mean information identifiable to any person, including, but not limited to, information that relates to a person's name, health, finances, education, business, use or receipt of governmental services or other activities, addresses, telephone numbers, social security numbers, driver license numbers, other identifying numbers, and any financial identifiers, and "Protected Health Information" under the federal Health Insurance Portability and Accountability Act of 1996 (HIPAA).
- F.** "State" shall mean the state of Washington.
- G.** "Subcontractor" shall mean one not in the employment of the Contractor, who is performing all or part of those services under this Contract under a separate contract with the Contractor. The terms "subcontractor" and "subcontractors" mean subcontractor(s) in any tier.

### **2. ALLOWABLE COSTS**

Costs allowable under this Contract are actual expenditures according to an approved budget up to the maximum amount stated on the Contract Award or Amendment Face Sheet.

### **3. ALL WRITINGS CONTAINED HEREIN**

This Contract contains all the terms and conditions agreed upon by the parties. No other understandings, oral or otherwise, regarding the subject matter of this Contract shall be deemed to exist or to bind any of the parties hereto.

### **4. AMENDMENTS**

This Contract may be amended by mutual agreement of the parties. Such amendments shall not be binding unless they are in writing and signed by personnel authorized to bind each of the parties.

### **5. AMERICANS WITH DISABILITIES ACT (ADA) OF 1990, PUBLIC LAW 101-336, also referred to as the "ADA" 28 CFR Part 35**

The Contractor must comply with the ADA, which provides comprehensive civil rights protection to individuals with disabilities in the areas of employment, public accommodations, state and local government services, and telecommunications.

**6. APPROVAL**

This contract shall be subject to the written approval of COMMERCE's Authorized Representative and shall not be binding until so approved. The contract may be altered, amended, or waived only by a written amendment executed by both parties.

**7. ASSIGNMENT**

Neither this Contract, work thereunder, nor any claim arising under this Contract, shall be transferred or assigned by the Contractor without prior written consent of COMMERCE.

**8. ATTORNEYS' FEES**

Unless expressly permitted under another provision of the Contract, in the event of litigation or other action brought to enforce Contract terms, each party agrees to bear its own attorneys' fees and costs.

**9. CODE REQUIREMENTS**

All construction and rehabilitation projects must satisfy the requirements of applicable local, state, and federal building, mechanical, plumbing, fire, energy and barrier-free codes. Compliance with the Americans with Disabilities Act of 1990 28 C.F.R. Part 35 will be required, as specified by the local building Department.

**10. CONFIDENTIALITY AND SAFEGUARDING OF INFORMATION**

A. "Confidential Information" as used in this section includes:

- i. All material provided to the Contractor by COMMERCE that is designated as "confidential" by COMMERCE;
  - ii. All material produced by the Contractor that is designated as "confidential" by COMMERCE; and
  - iii. All Personal Information in the possession of the Contractor that may not be disclosed under state or federal law.
- B. The Contractor shall comply with all state and federal laws related to the use, sharing, transfer, sale, or disclosure of Confidential Information. The Contractor shall use Confidential Information solely for the purposes of this Contract and shall not use, share, transfer, sell or disclose any Confidential Information to any third party except with the prior written consent of COMMERCE or as may be required by law. The Contractor shall take all necessary steps to assure that Confidential Information is safeguarded to prevent unauthorized use, sharing, transfer, sale or disclosure of Confidential Information or violation of any state or federal laws related thereto. Upon request, the Contractor shall provide COMMERCE with its policies and procedures on confidentiality. COMMERCE may require changes to such policies and procedures as they apply to this Contract whenever COMMERCE reasonably determines that changes are necessary to prevent unauthorized disclosures. The Contractor shall make the changes within the time period specified by COMMERCE. Upon request, the Contractor shall immediately return to COMMERCE any Confidential Information that COMMERCE reasonably determines has not been adequately protected by the Contractor against unauthorized disclosure.
- C. Unauthorized Use or Disclosure. The Contractor shall notify COMMERCE within five (5) working days of any unauthorized use or disclosure of any confidential information, and shall take necessary steps to mitigate the harmful effects of such use or disclosure.

**11. CONFORMANCE**

If any provision of this contract violates any statute or rule of law of the state of Washington, it is considered modified to conform to that statute or rule of law.

## **12. CONFLICT OF INTEREST**

Notwithstanding any determination by the Executive Ethics Board or other tribunal, COMMERCE may, in its sole discretion, by written notice to the Contractor terminate this contract if it is found after due notice and examination by COMMERCE that there is a violation of the Ethics in Public Service Act, Chapters 42.52 RCW and 42.23 RCW; or any similar statute involving the Contractor in the procurement of, or performance under this contract.

Specific restrictions apply to contracting with current or former state employees pursuant to chapter 42.52 of the Revised Code of Washington. The Contractor and their subcontractor(s) must identify any person employed in any capacity by the state of Washington that worked with the COMMERCE program executing this Contract, including but not limited to formulating or drafting the legislation, participating in procurement planning and execution, awarding contracts, and monitoring contract, during the 24-month period preceding the start date of this Contract. Identify the individual by name, the agency previously or currently employed by, job title or position held, and separation date. If it is determined by Commerce that a conflict of interest exists, the Contractor may be disqualified from further consideration for the award of a Contract.

In the event this contract is terminated as provided above, Commerce shall be entitled to pursue the same remedies against the Contractor as it could pursue in the event of a breach of the contract by the Contractor. The rights and remedies of Commerce provided for in this clause shall not be exclusive and are in addition to any other rights and remedies provided by law. The existence of facts upon which Commerce makes any determination under this clause shall be an issue and may be reviewed as provided in the "Disputes" clause of this contract.

## **13. COPYRIGHT**

Unless otherwise provided, all Materials produced under this Contract shall be considered "works for hire" as defined by the U.S. Copyright Act and shall be owned by COMMERCE. COMMERCE shall be considered the author of such Materials. In the event the Materials are not considered "works for hire" under the U.S. Copyright laws, the Contractor hereby irrevocably assigns all right, title, and interest in all Materials, including all intellectual property rights, moral rights, and rights of publicity to COMMERCE effective from the moment of creation of such Materials.

"Materials" means all items in any format and includes, but is not limited to, data, reports, documents, pamphlets, advertisements, books, magazines, surveys, studies, computer programs, films, tapes, and/or sound reproductions. "Ownership" includes the right to copyright, patent, register and the ability to transfer these rights.

For Materials that are delivered under the Contract, but that incorporate pre-existing materials not produced under the Contract, the Contractor hereby grants to COMMERCE a nonexclusive, royalty-free, irrevocable license (with rights to sublicense to others) in such Materials to translate, reproduce, distribute, prepare derivative works, publicly perform, and publicly display. The Contractor warrants and represents that the Contractor has all rights and permissions, including intellectual property rights, moral rights and rights of publicity, necessary to grant such a license to COMMERCE.

The Contractor shall exert all reasonable effort to advise COMMERCE, at the time of delivery of Materials furnished under this Contract, of all known or potential invasions of privacy contained therein and of any portion of such document which was not produced in the performance of this Contract. The Contractor shall provide COMMERCE with prompt written notice of each notice or claim of infringement received by the Contractor with respect to any Materials delivered under this Contract. COMMERCE shall have the right to modify or remove any restrictive markings placed upon the Materials by the Contractor.

## **14. DISALLOWED COSTS**

The Contractor is responsible for any audit exceptions or disallowed costs incurred by its own organization or that of its Subcontractors.

**15. DISPUTES**

In the event that a dispute arises under this Agreement, it shall be determined by a Dispute Board in the following manner: Each party to this Agreement shall appoint one member to the Dispute Board. The members so appointed shall jointly appoint an additional member to the Dispute Board. The Dispute Board shall review the facts, Agreement terms and applicable statutes and rules and make a determination of the dispute. The Dispute Board shall thereafter decide the dispute with the majority prevailing. The determination of the Dispute Board shall be final and binding on the parties hereto. As an alternative to this process, either of the parties may request intervention by the Governor, as provided by RCW 43.17.330, in which event the Governor's process will control.

**16. DUPLICATE PAYMENT**

Contractor certifies that work to be performed under this contract does not duplicate any work to be charged against any other contract, subcontract, or other source.

**17. GOVERNING LAW AND VENUE**

This Contract shall be construed and interpreted in accordance with the laws of the state of Washington, and the venue of any action brought hereunder shall be in the Superior Court for Thurston County.

**18. INDEMNIFICATION**

Each party shall be solely responsible for the acts of its employees, officers, and agents.

**19. INDEPENDENT CAPACITY OF THE CONTRACTOR**

The parties intend that an independent contractor relationship will be created by this Contract. The Contractor and its employees or agents performing under this Contract are not employees or agents of the state of Washington or COMMERCE. The Contractor will not hold itself out as or claim to be an officer or employee of COMMERCE or of the state of Washington by reason hereof, nor will the Contractor make any claim of right, privilege or benefit which would accrue to such officer or employee under law. Conduct and control of the work will be solely with the Contractor.

**20. INDUSTRIAL INSURANCE COVERAGE**

The Contractor shall comply with all applicable provisions of Title 51 RCW. If the Contractor fails to provide industrial insurance coverage or fails to pay premiums or penalties on behalf of its employees as may be required by law, COMMERCE may collect from the Contractor the full amount payable to the Industrial Insurance Accident Fund. COMMERCE may deduct the amount owed by the Contractor to the accident fund from the amount payable to the Contractor by COMMERCE under this Contract, and transmit the deducted amount to the Department of Labor and Industries, (L&I) Division of Insurance Services. This provision does not waive any of L&I's rights to collect from the Contractor.

**21. LAWS**

The Contractor shall comply with all applicable laws, ordinances, codes, regulations and policies of local, state, and federal governments, as now or hereafter amended.

**22. LICENSING, ACCREDITATION AND REGISTRATION**

The Contractor shall comply with all applicable local, state, and federal licensing, accreditation and registration requirements or standards necessary for the performance of this Contract.

**23. LIMITATION OF AUTHORITY**

Only the Authorized Representative or Authorized Representative's designee by writing (designation to be made prior to action) shall have the express, implied, or apparent authority to alter, amend, modify, or waive any clause or condition of this Contract.

**24. LOCAL PUBLIC TRANSPORTATION COORDINATION**

Where applicable, Contractor shall participate in local public transportation forums and implement strategies designed to ensure access to services.

**25. NONCOMPLIANCE WITH NONDISCRIMINATION LAWS**

During the performance of this Contract, the Contractor shall comply with all federal, state, and local nondiscrimination laws, regulations and policies. In the event of the Contractor's non-compliance or refusal to comply with any nondiscrimination law, regulation or policy, this Contract may be rescinded, canceled or terminated in whole or in part, and the Contractor may be declared ineligible for further contracts with COMMERCE. The Contractor shall, however, be given a reasonable time in which to cure this noncompliance. Any dispute may be resolved in accordance with the "Disputes" procedure set forth herein.

The funds provided under this contract may not be used to fund religious worship, exercise, or instruction. No person shall be required to participate in any religious worship, exercise, or instruction in order to have access to the facilities funded by this contract.

**26. PAY EQUITY**

The Contractor agrees to ensure that "similarly employed" individuals in its workforce are compensated as equals, consistent with the following:

- A. Employees are "similarly employed" if the individuals work for the same employer, the performance of the job requires comparable skill, effort, and responsibility, and the jobs are performed under similar working conditions. Job titles alone are not determinative of whether employees are similarly employed;
- B. Contractor may allow differentials in compensation for its workers if the differentials are based in good faith and on any of the following:
  - i. A seniority system; a merit system; a system that measures earnings by quantity or quality of production; a bona fide job-related factor or factors; or a bona fide regional difference in compensation levels.
  - ii. A bona fide job-related factor or factors may include, but not be limited to, education, training, or experience that is: Consistent with business necessity; not based on or derived from a gender-based differential; and accounts for the entire differential.
  - iii. A bona fide regional difference in compensation level must be: Consistent with business necessity; not based on or derived from a gender-based differential; and account for the entire differential.

This Contract may be terminated by the Department, if the Department or the Department of Enterprise Services determines that the Contractor is not in compliance with this provision.

**27. POLITICAL ACTIVITIES**

Political activity of Contractor's employees and officers are limited by the State Campaign Finances and Lobbying provisions of Chapter 42.17A RCW and the Federal Hatch Act, 5 USC 1501 - 1508.

No funds may be used for working for or against ballot measures or for or against the candidacy of any person for public office.

**28. PREVAILING WAGE LAW**

The Contractor certifies that all contractors and subcontractors performing work on the Project shall comply with state Prevailing Wages on Public Works, Chapter 39.12 RCW, as applicable to the Project funded by this contract, including but not limited to the filing of the "Statement of Intent to Pay Prevailing Wages" and "Affidavit of Wages Paid" as required by RCW 39.12.040. The Contractor shall

maintain records sufficient to evidence compliance with Chapter 39.12 RCW, and shall make such records available for COMMERCE's review upon request.

#### **29. PROHIBITION AGAINST PAYMENT OF BONUS OR COMMISSION**

The funds provided under this Contract shall not be used in payment of any bonus or commission for the purpose of obtaining approval of the application for such funds or any other approval or concurrence under this Contract provided, however, that reasonable fees or bona fide technical consultant, managerial, or other such services, other than actual solicitation, are not hereby prohibited if otherwise eligible as project costs.

#### **30. PUBLICITY**

The Contractor agrees not to publish or use any advertising or publicity materials in which the state of Washington or COMMERCE's name is mentioned, or language used from which the connection with the state of Washington's or COMMERCE's name may reasonably be inferred or implied, without the prior written consent of COMMERCE.

#### **31. RECAPTURE**

In the event that the Contractor fails to perform this Contract in accordance with state laws, federal laws, and/or the provisions of this Contract, COMMERCE reserves the right to recapture funds in an amount to compensate COMMERCE for the noncompliance in addition to any other remedies available at law or in equity.

Repayment by the Contractor of funds under this recapture provision shall occur within the time period specified by COMMERCE. In the alternative, COMMERCE may recapture such funds from payments due under this Contract.

#### **32. RECORDS MAINTENANCE**

The Contractor shall maintain books, records, documents, data and other evidence relating to this contract and performance of the services described herein, including but not limited to accounting procedures and practices that sufficiently and properly reflect all direct and indirect costs of any nature expended in the performance of this contract.

The Contractor shall retain such records for a period of six years following the date of final payment. At no additional cost, these records, including materials generated under the contract, shall be subject at all reasonable times to inspection, review or audit by COMMERCE, personnel duly authorized by COMMERCE, the Office of the State Auditor, and federal and state officials so authorized by law, regulation or agreement.

If any litigation, claim or audit is started before the expiration of the six (6) year period, the records shall be retained until all litigation, claims, or audit findings involving the records have been resolved.

#### **33. REGISTRATION WITH DEPARTMENT OF REVENUE**

If required by law, the Contractor shall complete registration with the Washington State Department of Revenue.

#### **34. RIGHT OF INSPECTION**

At no additional cost all records relating to the Contractor's performance under this Contract shall be subject at all reasonable times to inspection, review, and audit by COMMERCE, the Office of the State Auditor, and federal and state officials so authorized by law, in order to monitor and evaluate performance, compliance, and quality assurance under this Contract. The Contractor shall provide access to its facilities for this purpose.

#### **35. SAVINGS**

In the event funding from state, federal, or other sources is withdrawn, reduced, or limited in any way after the effective date of this Contract and prior to normal completion, COMMERCE may suspend or terminate the Contract under the "Termination for Convenience" clause, without the ten calendar day

notice requirement. In lieu of termination, the Contract may be amended to reflect the new funding limitations and conditions.

**36. SEVERABILITY**

The provisions of this contract are intended to be severable. If any term or provision is illegal or invalid for any reason whatsoever, such illegality or invalidity shall not affect the validity of the remainder of the contract.

**37. SUBCONTRACTING (REPLACED BY PROGRAM-SPECIFIC TERMS AND CONDITIONS #1)**

~~The Contractor may only subcontract work contemplated under this Contract if it obtains the prior written approval of COMMERCE.~~

~~If COMMERCE approves subcontracting, the Contractor shall maintain written procedures related to subcontracting, as well as copies of all subcontracts and records related to subcontracts. For cause, COMMERCE in writing may: (a) require the Contractor to amend its subcontracting procedures as they relate to this Contract; (b) prohibit the Contractor from subcontracting with a particular person or entity; or (c) require the Contractor to rescind or amend a subcontract.~~

~~Every subcontract shall bind the Subcontractor to follow all applicable terms of this Contract. The Contractor is responsible to COMMERCE if the Subcontractor fails to comply with any applicable term or condition of this Contract. The Contractor shall appropriately monitor the activities of the Subcontractor to assure fiscal conditions of this Contract. In no event shall the existence of a subcontract operate to release or reduce the liability of the Contractor to COMMERCE for any breach in the performance of the Contractor's duties.~~

~~Every subcontract shall include a term that COMMERCE and the State of Washington are not liable for claims or damages arising from a Subcontractor's performance of the subcontract.~~

**38. SURVIVAL**

The terms, conditions, and warranties contained in this Contract that by their sense and context are intended to survive the completion of the performance, cancellation or termination of this Contract shall so survive.

**39. TAXES**

All payments accrued on account of payroll taxes, unemployment contributions, the Contractor's income or gross receipts, any other taxes, insurance or expenses for the Contractor or its staff shall be the sole responsibility of the Contractor.

**40. TERMINATION FOR CAUSE**

In the event COMMERCE determines the Contractor has failed to comply with the conditions of this contract in a timely manner, COMMERCE has the right to suspend or terminate this contract. Before suspending or terminating the contract, COMMERCE shall notify the Contractor in writing of the need to take corrective action. If corrective action is not taken within 30 calendar days, the contract may be terminated or suspended.

In the event of termination or suspension, the Contractor shall be liable for damages as authorized by law including, but not limited to, any cost difference between the original contract and the replacement or cover contract and all administrative costs directly related to the replacement contract, e.g., cost of the competitive bidding, mailing, advertising and staff time.

COMMERCE reserves the right to suspend all or part of the contract, withhold further payments, or prohibit the Contractor from incurring additional obligations of funds during investigation of the alleged compliance breach and pending corrective action by the Contractor or a decision by COMMERCE to terminate the contract. A termination shall be deemed a "Termination for Convenience" if it is determined that the Contractor: (1) was not in default; or (2) failure to perform was outside of his or her control, fault or negligence.

The rights and remedies of COMMERCE provided in this contract are not exclusive and are, in addition to any other rights and remedies, provided by law.

#### **41. TERMINATION FOR CONVENIENCE**

Except as otherwise provided in this Contract, COMMERCE may, by ten (10) business days' written notice, beginning on the second day after the mailing, terminate this Contract, in whole or in part. If this Contract is so terminated, COMMERCE shall be liable only for payment required under the terms of this Contract for services rendered or goods delivered prior to the effective date of termination.

#### **42. TERMINATION PROCEDURES**

Upon termination of this contract, COMMERCE, in addition to any other rights provided in this contract, may require the Contractor to deliver to COMMERCE any property specifically produced or acquired for the performance of such part of this contract as has been terminated. The provisions of the "Treatment of Assets" clause shall apply in such property transfer.

COMMERCE shall pay to the Contractor the agreed upon price, if separately stated, for completed work and services accepted by COMMERCE, and the amount agreed upon by the Contractor and COMMERCE for (i) completed work and services for which no separate price is stated, (ii) partially completed work and services, (iii) other property or services that are accepted by COMMERCE, and (iv) the protection and preservation of property, unless the termination is for default, in which case the Authorized Representative shall determine the extent of the liability of COMMERCE. Failure to agree with such determination shall be a dispute within the meaning of the "Disputes" clause of this contract. COMMERCE may withhold from any amounts due the Contractor such sum as the Authorized Representative determines to be necessary to protect COMMERCE against potential loss or liability.

The rights and remedies of COMMERCE provided in this section shall not be exclusive and are in addition to any other rights and remedies provided by law or under this contract.

After receipt of a notice of termination, and except as otherwise directed by the Authorized Representative, the Contractor shall:

- A. Stop work under the contract on the date, and to the extent specified, in the notice;
- B. Place no further orders or subcontracts for materials, services, or facilities except as may be necessary for completion of such portion of the work under the contract that is not terminated;
- C. Assign to COMMERCE, in the manner, at the times, and to the extent directed by the Authorized Representative, all of the rights, title, and interest of the Contractor under the orders and subcontracts so terminated, in which case COMMERCE has the right, at its discretion, to settle or pay any or all claims arising out of the termination of such orders and subcontracts;
- D. Settle all outstanding liabilities and all claims arising out of such termination of orders and subcontracts, with the approval or ratification of the Authorized Representative to the extent the Authorized Representative may require, which approval or ratification shall be final for all the purposes of this clause;
- E. Transfer title to COMMERCE and deliver in the manner, at the times, and to the extent directed by the Authorized Representative any property which, if the contract had been completed, would have been required to be furnished to COMMERCE;
- F. Complete performance of such part of the work as shall not have been terminated by the Authorized Representative; and
- G. Take such action as may be necessary, or as the Authorized Representative may direct, for the protection and preservation of the property related to this contract, which is in the possession of the Contractor and in which COMMERCE has or may acquire an interest.

**43. TREATMENT OF ASSETS (REPLACED BY PROGRAM-SPECIFIC TERMS AND CONDITIONS #2)**

~~Title to all property furnished by COMMERCE shall remain in COMMERCE. Title to all property furnished by the Contractor, for the cost of which the Contractor is entitled to be reimbursed as a direct item of cost under this contract, shall pass to and vest in COMMERCE upon delivery of such property by the Contractor. Title to other property, the cost of which is reimbursable to the Contractor under this contract, shall pass to and vest in COMMERCE upon (i) issuance for use of such property in the performance of this contract, or (ii) commencement of use of such property in the performance of this contract, or (iii) reimbursement of the cost thereof by COMMERCE in whole or in part, whichever first occurs.~~

- ~~A. Any property of COMMERCE furnished to the Contractor shall, unless otherwise provided herein or approved by COMMERCE, be used only for the performance of this contract.~~
- ~~B. The Contractor shall be responsible for any loss or damage to property of COMMERCE that results from the negligence of the Contractor or which results from the failure on the part of the Contractor to maintain and administer that property in accordance with sound management practices.~~
- ~~C. If any COMMERCE property is lost, destroyed or damaged, the Contractor shall immediately notify COMMERCE and shall take all reasonable steps to protect the property from further damage.~~
- ~~D. The Contractor shall surrender to COMMERCE all property of COMMERCE prior to settlement upon completion, termination or cancellation of this contract.~~
- ~~E. All reference to the Contractor under this clause shall also include Contractor's employees, agents or Subcontractors.~~

**44. WAIVER**

Waiver of any default or breach shall not be deemed to be a waiver of any subsequent default or breach. Any waiver shall not be construed to be a modification of the terms of this Contract unless stated to be such in writing and signed by Authorized Representative of COMMERCE.

**Project Name:** Grove Field

**Project Location:** 623 NE 267<sup>th</sup> Street, Camas Washington 98607

**Project Description:** This project is funded by the Solar Plus Storage for Resilient Communities grant from the Washington State Department of Commerce. The grant purpose is to increase solar deployment and installation of battery storage in community buildings to enhance grid resiliency and provide backup power for critical needs during outages. Two rooftop mounted solar with battery backup systems will be installed.

### System Size

Solar array size (kW DC): 22.4 Location 1 (D-Row Hangar): 24 Location 2 (AP-1): 28.8 Total 52.8	Battery energy storage system size (kw): Location 1: 7.68 Location 2: 7.68 Total 15.36
Solar array size (kW AC): 22.8 Location 1: 19.5 Location 2: 23.4 Total: 42.9	Battery energy storage system size (kWh): Location 1: 20.16 Location 2: 20.16 Total: 40.32

### Major Components – Roof Mounted (Changes to materials are not allowed without DOC Approval)

Quantity	Make and Model	Equipment
132	Silfab Solar SIL-400HC+	Solar Modules
132	Enphase Energy Inc IQ8M-72-2-US	Inverters
2	Enphase IQ Controller II	System controllers
2	Enphase IQ Combiner	Combiner panels
N/A	Iron Ridge	Racking
4	Enphase IQ 10	Batteries

### Project Development and Design

- 1) Project development and design work to ensure the project is ready for construction.  
Equipment must be compliant with IEEE Standard 1547.
- 2) The solar system and battery energy storage system must meet all applicable industry standards and codes including, but not limited to: UL 1741, International Building Code, International Fire Code, National Electric Code

## **Contracting and Permitting**

1. Apply for and secure applicable permits, including but not limited to electrical, building, and fire marshal.
2. Apply for utility interconnection and secure agreement with Clark Public Utilities.

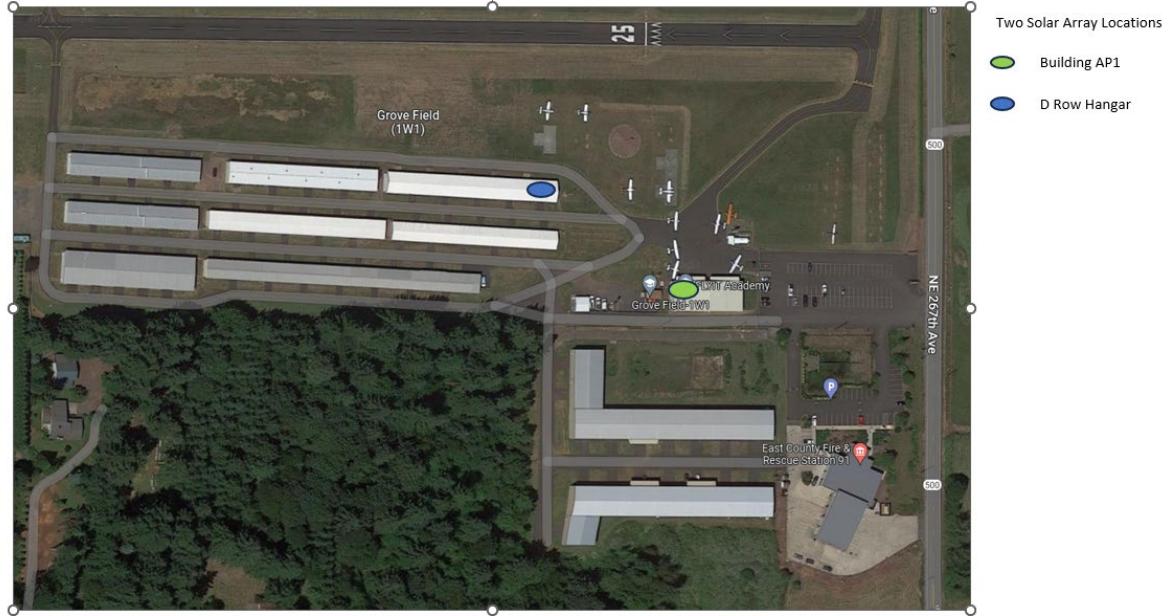
## **Equipment Delivery, Installation and Construction**

1. Complete site preparation and restoration activities related to mounting type as required to complete the project, including concrete pads, fencing and gravel or other surfacing as needed for safety, code requirements, access, or to prevent vandalism of the equipment.
2. Provide and install electrical gear and feeders required to connect solar system and BESS to existing electrical service, including critical loads panels, transformer upgrades, and other necessary electrical changes identified in the original funding application.
3. Supply and install a solar array including equipment listed above.
4. Supply and install BESS including equipment listed above.
5. Install all equipment necessary to enable the solar system and BESS to safely operate independently of the electric grid in an outage.
6. Any electrical and control system integration with other generators. Purchase and installation of generators other than the solar generator described above is not included in this scope.
7. Procure and set up monitoring software. Ensure software is monitoring correctly.
8. Accurate communication on scheduling power outages is critical.
9. The battery system at Location 1, D-Row Hangar will be inside the hangar. The battery system at Location 2 AP-1 building will be outside.

## **Systems Integration and Commissioning**

1. Commission solar PV system and verify all system components are properly designed, installed, and optimized.
2. Test full functional system and confirm whole system operation follows design intent as described in application.
3. Test control system that allows the system to operate independently of the grid in an outage.

# Grove Field





## BID RESPONSE FORM

TO: Port of Camas/Washougal  
24 South 'A' Street  
Washougal, WA 98671

**Project: Grove Field Solar Project**

**Bids Due: March 14, 2024 @ 3pm**  
Port's Administrative Office  
24 SOUTH. "A" STREET  
WASHOUGAL, WA 98671

In submitting this bid, I agree:

1. To hold my bid open for sixty (60) calendar days;
2. To accept the provisions of the Instructions to Bidders;
3. To enter into and execute a Contract, if awarded on the basis of this bid, and to furnish all Bonds in accordance with the Instructions to Bidders;
4. That the Port reserves the right to waive any informalities or irregularities or to reject any or all bids. The Port also reserves the right to accept or reject alternate bids in any order or combination.
5. That I have carefully examined the Contract Documents, as well as the site of the project and conditions affecting the work, and to furnish all the labor, materials, equipment, superintendence, insurance and other accessories and services necessary to perform and complete all of the work required in strict accordance with the above-named documents and the implied intent thereof.
6. To be bound by the Instructions to Bidders which are incorporated into the Bid Response Form as if fully set forth herein.

In accordance with RCW 39.04.350 (1), before award of a public works contract, a Bidder must meet the following responsibility criteria to be considered a responsible bidder and qualified to be awarded a public works project.

The Bidder must:

1. At the time of bid submittal, have a certificate of registration in compliance with chapter 18.27 RCW;
2. Have a current state unified business identifier (UBI) number;
3. If applicable, have industrial insurance coverage for the Bidder's employees working in Washington as required in Title 51 RCW;
4. If applicable, have an employment security department number as required in Title 50 RCW;
5. If applicable, have a state excise tax registration number as required in Title 82 RCW;
6. Not be disqualified from bidding on any public works contract under RCW 39.06.010 or 39.12.065(3).
7. If bidding on a public works project subject to the apprenticeship utilization requirements in RCW 39.04.320, not have been found out of compliance by the Washington state apprenticeship and training council for working apprentices out of ratio, without appropriate supervision, or outside their approved work processes as outlined in their standards of apprenticeship under chapter 49.04 RCW for the one-year period immediately preceding the date of the bid solicitation; and
8. Have received training on the requirements related to public works and prevailing wage under this chapter and chapter 39.12 RCW.

In accordance with RCW 39.06, a public works contractor must verify responsibility criteria for each first tier subcontractor, and a subcontractor of any tier that hires other subcontractors must verify responsibility criteria for each of its subcontractors. Verification shall include that each subcontractor, at the time of subcontract execution, meets the responsibility criteria listed in RCW 39.04.350(1) and possesses an electrical contractor license, if required by RCW 19.28, or an elevator contractor license, if required by RCW 70.87, or a plumbing contractor license [,] if required by chapter 18.106 RCW. This verification requirement, as well as the responsibility criteria, must be included in every public works contract and subcontract of every tier.

Providing the following information is **MANDATORY** in order to meet "Responsible Bidder" requirements. Failure to provide this information may disqualify your bid as being "Non-Responsive"

WA Contractor's License No. POWERNI785NU Expiration Date 8/31/24  
WA Business License (UBI) No. 604-648-194  
Business for which issued Power Northwest Inc.  
Industrial Insurance Coverage No. CMV-PLI-0036284-01  
State Excise Tax Registration No. A42815224 (Resller Permit Number)  
Employment Security Department No. 100025308  
Federal Tax Identification No. 84-4119864

The undersigned operates as (check appropriate space):  
 an individual,  a partnership,  a joint venture,  a corporation incorporated in the State of OR

The undersigned acknowledges receipt of the following addenda to the Drawings and/or Specifications (list number and date of each; if no addenda are acknowledged, write "none"):

Addendum \_\_\_\_\_ Date \_\_\_\_\_

Addendum \_\_\_\_\_ Date \_\_\_\_\_

NAME AND ADDRESS OF FIRM OR INDIVIDUAL SUBMITTING BID (type or print):

Power Northwest Inc.

2711 NW Saint Helens Rd. Portland, OR 97210

NAME(S) AND TITLE(S) OF PARTNER(S) (type or print): Garrett Hartwell - Owner

Contact: Garrett Hartwell Telephone: 503-304-4357 Email: garrett@powernw.com

Base bid	\$ <u>219,966.00</u>
WA State sales tax*	\$ <u>17,157.36</u>
<b>TOTAL COST TO PORT</b>	\$ <u>237,123.57</u>

[\*Any work done inside Clark County which is taxable, is at the rate of 7.8%.]

**PLEASE ATTACH ALL SUPPORTING QUOTE INFORMATION TO THIS FORM**

#### **NON-COLLUSION DECLARATION**

I, by signing the proposal, hereby declare, under penalty of perjury under the laws of the United States that the following statements are true and correct:

That the undersigned person(s), firm, association or corporation has (have) not, either directly or indirectly, entered into any agreement, participated in any collusion, or otherwise taken any action in restraint of free competitive bidding in connection with the project for which this proposal is submitted.

That by signing the signature page of this proposal, I am deemed to have signed and to have agreed to the provisions of this declaration.

By (signature in ink): 

Print name and title: Garrett Hartwell - Owner



## Certification of Compliance with Wage Payment Statutes

The bidder hereby certifies that, within the three-year period immediately preceding the bid solicitation date February 27, 2024, the bidder is not a "willful" violator, as defined in RCW 49.48.082, of any provision of chapters 49.46, 49.48, or 49.52 RCW, as determined by a final and binding citation and notice of assessment issued by the Department of Labor and Industries or through a civil judgment entered by a court of limited or general jurisdiction.

I declare under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct.

Power Northwest Inc.

Bidder

A handwritten signature in black ink that reads "Garrett Hartwell".

Signature of Authorized Official\*

Garrett Hartwell

Printed Name

Owner

Title

3/12/24

Date

Portland

City

OR

State

*Check One:*

Individual  Partnership  Joint Venture  Corporation

State of Incorporation, or if not a corporation, State where business entity was formed:

Oregon

If a co-partnership, give firm name under which business is transacted:

NA

\* If a corporation, proposal must be executed in the corporate name by the president or vice-president (or any other corporate officer accompanied by evidence of authority to sign). If a co-partnership, proposal must be executed by a partner.



STATE OF WASHINGTON  
DEPARTMENT OF LABOR AND INDUSTRIES

PO Box 44140 • Olympia, Washington 98504-4140

August 23, 2023

604-648-194

POWER NORTHWEST INC  
2711 NW SAINT HELENS RD  
PORTLAND OR 97210

**OR Policy #: 100025308**

Dear Employer,

The Washington State Department of Labor and Industries has approved your request to extend your existing workers' compensation to your Oregon employees while they are temporarily working in Washington, effective 06/01/2023 through 06/01/2024.

Please ensure this coverage meets all of Oregon's workers' compensation requirements. Your Oregon workers' compensation coverage applies only to your Oregon employees while they are temporarily working in the state of Washington. Any workers you hire in Washington or hire specifically to work in Washington must be covered by a separate policy through the Department of Labor and Industries.

Thank you for your request. Please contact me if you have any questions.

Sincerely,

*Eric Bruno*

Eric Bruno  
Employer Services, Program Coordinator  
PO Box 44140  
Olympia, WA 98504-4140  
360-902-4817  
teamoas@lni.wa.gov

Enclosures: Approved Request for Extraterritorial Coverage

CC: SAIF CORPORATION  
400 HIGH ST  
SALEM OR 97312-1000

**Oregon Approval - Extraterritorial Certificates**

## Extraterritorial Certificate of Insurance

**Company:**

SAIF Corporation  
400 High Street  
Salem Office  
Salem, OR 97312-1000

**SAIF Policy:** 100025308**NAICS Code:** 236118**Policy period effective date:** 06/01/2023**Insured:**

Power Northwest Incorporated  
2711 Nw Saint Helens Rd  
Portland, OR 97210

Legal Entity: Power Northwest Incorporated

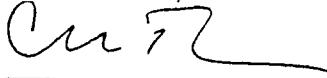
- Construction Related  
 Not Construction Related

This employer is a SAIF policyholder fully insured under Oregon Workers' Compensation law. This insurance includes coverage of Oregon workers temporarily employed out of state incidental to their Oregon employment.

For questions regarding this certificate of insurance, please contact:

/s/ Kathy Ragan  
Insurance Rep Supervisor  
P: 503.673.5363  
F: 503.584.9049  
katrag@saif.com

Authorized Representative



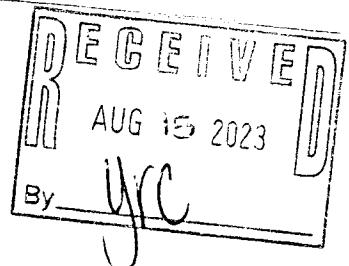
Chip Terhune, President and CEO

**Issue date:** August 02, 2023

**Certificate Holder:**

Washington State  
Dept Of Labor & Industries  
Insurance Services Division  
PO Box 44148  
Olympia, WA 98504-4148

Workers' Compensation Division  
Employer Compliance  
PO Box 14480  
Salem, OR 97300-0485



400 High Street SE  
Salem, OR 97312  
P: 800.285.8525  
F: 503.373.8020

## **Debarment, Suspension, Ineligibility or Voluntary Exclusion Certification Form**

ORGANIZATION NAME	Power Northwest Inc.		Doing business as (DBA)	
ADDRESS 2711 NW Saint Helens Rd Portland, OR 97210	Applicable Procurement or Solicitation #, if any: <b>SOLAR-22</b>	WA Uniform Business Identifier (UBI) <b>604-648-194</b>	Federal Employer Tax Identification #: <b>84-4119864</b>	
<b>This certification is submitted as part of a request to contract.</b>				

### **Instructions For Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion--Lower Tier Covered Transactions**

**READ CAREFULLY BEFORE SIGNING THE CERTIFICATION.** Federal regulations require contractors and bidders to sign and abide by the terms of this certification, without modification, in order to participate in certain transactions directly or indirectly involving federal funds.

1. By signing and submitting this proposal, the prospective lower tier participant is providing the certification set out below.
2. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.
3. The prospective lower tier participant shall provide immediate written notice to the department, institution or office to which this proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous when submitted or had become erroneous by reason of changed circumstances.
4. The terms covered transaction, debarred, suspended, ineligible, lower tier covered transaction, participant, person, primary covered transaction, principal, proposal, and voluntarily excluded, as used in this clause, have the meaning set out in the Definitions and Coverage sections of rules implementing Executive Order 12549. You may contact the person to which this proposal is submitted for assistance in obtaining a copy of those regulations.
5. The prospective lower tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is proposed for debarment under the applicable CFR, debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.
6. The prospective lower tier participant further agrees by submitting this proposal that it will include this clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transaction," without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.
7. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not proposed for debarment under applicable CFR, debarred, suspended, ineligible, or voluntarily excluded from covered transactions, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the List of Parties Excluded from Federal Procurement and Non-procurement Programs.
8. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business activity.
9. Except for transactions authorized under paragraph 5 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is proposed for debarment under applicable CFR, suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

### **Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion--Lower Tier Covered Transactions**

The prospective lower tier participant certifies, by submission of this proposal or contract, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency. Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this form.

Bidder or Contractor Signature:  Date: 3/12/24

Print Name and Title: Garrett Hartwell - Owner

Contract Number: Solar-22 Grove Field Solar System



March 14, 2024

2711 NW Saint Helens Rd.  
Portland, OR 97210

## Inclusion Plan – Grove Field Solar System

### **1. Goals for small and diverse participation:**

Contract Amount - \$219,966 (excluding tax)

Small business total 10% - \$21,997 (see below breakdown)

    OMWBE certified business 6.4% - \$14,078

    Veteran owned business 2% - \$4,399

    Other small businesses 1.6% - \$3,520

### **2. Contractor's diverse business subcontracting list**

- Tabby Cat Communications
- Dirt Masters
- KC Aerial Survey
- Red Door Supply

### **3. Planned efforts by the firm to meet or exceed the aspirational inclusion goals to include but not limited to the following:**

- a. We plan to engage Tabby Cat to develop an owner's operating manual for the upcoming project. Dirt Masters has been selected as our trenching and locating subcontractor, while KC Aerial Survey will provide drone footage for aerial surveys. Additionally, Red Door Supply will be assisting us with equipment procurement for the project. We prioritize respectful treatment of all subcontractors, ensuring prompt payment and maintaining clear lines of communication throughout the project
- b. We are dedicated to nurturing the growth and expertise of our subcontractors, Tabby Cat, Dirt Masters, and KC Aerial Survey, through mentoring and networking. Our commitment to investing in their growth not only strengthens our project team but also contributes to the long-term success of our subcontractor community, laying the groundwork for excellence in our industry.
- c. We pay all subcontractors in full within 30 days of receipt of an invoice. All dispute resolution is done through mediation or binding arbitration. Both parties waive the right to a jury trial so that we can effectively and affordably resolve any disputes.

### **4. A description of planned efforts at outreach to the small and diverse business community.**

Our outreach efforts to the small and diverse business community include targeted communication through various channels such as industry events, networking sessions, and online platforms. We actively engage with minority-owned, women-owned, and veteran-owned businesses to promote collaboration and foster a diverse supplier base.

### **5. A description of the process for ensuring small businesses have enough time and information to provide a response to bids.**

Ensuring small businesses have ample time and information to respond to bids involves transparent communication of project details, including bid specifications, timelines, and submission requirements. We provide sufficient lead time for small businesses to review bid documents and offer clarification sessions to address any queries they may have.

### **6. Explain what efforts were made to ensure small businesses understand the bid and specifications?**

Efforts to ensure small businesses understand the bid and specifications include hosting pre-bid meetings and walkthroughs where potential bidders can familiarize themselves with project



2711 NW Saint Helens Rd.  
Portland, OR 97210

requirements and ask questions directly to project managers. Additionally, bid documents are crafted in clear and concise language, with technical terms explained to facilitate comprehension.

**7. Describe how small businesses been considered in the development of the bid?**

Small businesses are integral to the development of the bid process, with their input sought during the planning stages to identify potential opportunities for subcontracting and collaboration. We actively seek feedback from small business stakeholders to tailor bid requirements and ensure they align with the capabilities and resources of diverse suppliers.

**8. Identify the company's diversity expert**

Our diversity expert, Garrett, serves as a dedicated point of contact for matters related to diversity and inclusion initiatives within our company. They provide guidance on best practices, facilitate training sessions, and spearhead efforts to enhance diversity across all aspects of our operations.

**9. A list of projects with diverse business participation in the last five years.**

Over the past five years, we have proudly collaborated with a diverse range of businesses on numerous projects, including various residential solar projects, the Harka Architecture headquarters, and Singing Hills Stables. These projects showcase our commitment to fostering inclusivity and creating opportunities for diverse businesses to contribute to our success.

**10. Acknowledgment of awareness and commitment to reach out to diverse businesses.**

We acknowledge and affirm our commitment to reaching out to diverse businesses and promoting an inclusive procurement process. Recognizing the value of diversity in driving innovation and excellence, we are dedicated to cultivating partnerships with businesses of all backgrounds to foster a thriving and equitable business ecosystem.

**11. Acknowledge that proposing bidder has education and training programs to communicate implementation of the Diverse Business Inclusion.**

As part of our commitment to Diverse Business Inclusion, we have established comprehensive education and training programs aimed at communicating the implementation of our diversity initiatives. Through workshops, seminars, and online resources, we ensure that all stakeholders, including employees, subcontractors, and partners, understand and actively participate in promoting diversity and inclusion within our organization and throughout our supply chain.



## Port of Camas-Washougal Staff Report

**Department:** Projects

**Date:** April 3, 2024

**Staff Recommendation:** Approval of the Administrative Building Solar Project Contract with Power Northwest for \$102,486.00.

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**Summary:**

This project proposes to install solar power with battery backup at the Port of Camas-Washougal's Administrative Building. The Washington State Department of Commerce (DOC) will provide funding through the Solar plus storage for Resilient Communities grant. The purpose of this grant is to increase the deployment of solar and battery storage systems in community buildings that will enhance grid resilience and provide backup power for critical needs.

Bids were solicited for this project using the Port's small works roster procurement process. Power Northwest was the lowest responsible bidder.

**Budget Impact:**

DOC will provide grant funding for this project with a 30% Port match that was included in the 2024 Capital Budget. The Power Northwest construction project bid amount is \$102,486.00. Additional project savings were realized by using Washington State's solar energy system sales tax exemption.

**Sustainability Implications:**

The installation of solar power with a battery backup at the Administrative Building affirms the Port's commitment to sustainability while ensuring that critical Port functions remain operable during emergencies and power outages. An interconnection agreement will be developed between the Port and Clark Public Utilities.

**Diversity Equity and Inclusion Implications:**

A Diverse Business Inclusion Plan was developed for this project in accordance with legislative findings and policies set forth in RCW 39.19, the state of Washington encourages participation in all contracts by firms certified by the office of Minority and Women's Business Enterprises (OMWBE), set forth in RCW 43.60A.200 for firms certified by the Washington State Department of Veterans Affairs, and set forth in RCW 39.26.005 for firms that are Washington Small Businesses.

Project goals are as follows:

Certification Category	Project Goal	Power Northwest Goal
OMWBE	2%	6.4%
Veteran Owned Business	2%	2%
Small Business	10%	1.6%



## PUBLIC WORKS CONTRACTUAL AGREEMENT

---

This contract is made and entered into by and between the Port of Camas-Washougal, hereinafter referred to as the “PORT”, and the below named firm, hereinafter referred to as “CONTRACTOR”.

Name (Contractor): POWER NORTHWEST INC

Project Name: ADMINISTRATIVE BUILDING SOLAR PROJECT

Mailing Address: 2711 NW Saint Helens Rd, City, State, Zip Portland, OR 97210

Phone: 503-304-4357

SSN # or Tax ID #: 84-4119864 WA State UBI Business Number: 604-648-194

In consideration of the commitments and conditions contained herein, including those set forth in Attachment “A” and any Exhibits hereto, incorporated herein as though fully set forth, the PORT and CONTRACTOR do agree as follows:

**PURPOSE:** Installation of solar and battery energy storage system.

**SCOPE OF WORK:** See Attached

### **PERIOD OF PERFORMANCE**

The period of performance under this contract will be from April 17, 2024, or date of execution, whichever is later, through October 15, 2024.

### **TERMINATION**

The effective dates of this Agreement are as specified. Anything to the contrary herein notwithstanding, PORT or CONTRACTOR may terminate this agreement on 30 days prior written notice to the other party. In the event of termination, all finished and unfinished work prepared by the CONTRACTOR pursuant to this Contract shall be provided to the PORT. In the event the PORT terminates this Contract prior to completion without cause, the CONTRACTOR may complete such analyses and records as may be necessary to place its files in order, and as mutually agreed to by the parties. The CONTRACTOR shall be entitled to receive just and

equitable compensation for satisfactory work completed prior to the date of termination, not to exceed the total compensation set forth herein.

## **COMPENSATION**

1. As full compensation for the performance of its obligations of this Agreement and the services to be provided, the PORT shall pay CONTRACTOR the maximum amount as specified in this Agreement. Such payment shall be the total compensation for all work performed under this Agreement, including but not limited to all labor, materials and supplies, incidental expenses, subcontractor's fees, reimbursable expenses, and equipment expenses.

2. This will be accomplished on a Lump Sum Basis and will not exceed \$102,486.00, without prior written approval from the Port.

3. To be eligible for payment, CONTRACTOR shall submit detailed numbered invoices showing description of work items being invoices, work order number, title of project, total authorized, total current invoice, and balance of authorization. All invoices shall note "Prevailing wages have been paid in accordance with the approved Intent." Invoices shall be sent directly to the attention of Accounts Payable, at 24 South A Street, Washougal, WA 98671. Payment shall be made through the Port's ordinary payment process and shall be considered timely if made within 30 days of receipt of a properly completed invoice.

4. The PORT may withhold payment to the CONTRACTOR for any work not completed to the PORT'S satisfaction, until such time as the CONTRACTOR modifies such work to the satisfaction of the PORT.

5. All payments shall be subject to adjustment for any amounts, upon audit or otherwise, determined to have been improperly invoiced.

6. In the event CONTRACTOR incurs cost in excess of the sum stated above, CONTRACTOR shall pay such excess from its own funds, and the PORT shall not be required to pay any part of such excess, and CONTRACTOR shall have no claim against the PORT on account thereof.

7. Prevailing wages must be paid, rates are published on the Department of L&I's website at: <https://www.lni.wa.gov/licensing-permits/public-works-projects/prevailing-wage-rates/>. The project will be performed in Clark County. The Port also has a hard copy of the rates available upon request. Per RCW 39.12 Section 5 (2) a copy of certified payroll records shall be filed with the Department of L&I using its online system.

## **RETAINAGE**

[X] Retainage Held by Port: Contractor specifically acknowledges that five percent (5%) of all payments that would otherwise be payable to Contractor shall be subject to retainage pursuant to the requirements of RCW 60.28.011. Upon the completion of the work by Contractor under the terms of this agreement and upon final approval and acceptance of contractor's work and materials by the Port, the Port will make final payment to Contractor of the balance due Contractor under the terms of this agreement within thirty (30) days after the Port has received (1) an "Affidavit of Wages Paid" by Contractor, attesting to the fact that all

subcontractors/suppliers have been paid and (2) receipt by the Port of authorization from the Washington State Department of Revenue and Employment Security to release the retainage.

[ ] Retainage Bond: Contractor shall, at the time of delivery of this contract, furnish a duly executed retainage bond upon such form as is furnished or approved by the Port, signed by an approved surety or sureties authorized to do business in the State of Washington. Such bond shall provide that the surety or sureties will agree to protect and indemnify the Port against any direct or indirect loss that shall be suffered or claimed by reason of the failure of the Contractor to pay all laborers, mechanics, subcontractors, agents, material men, and all persons who shall supply such Contractor, subcontractor or agents with provisions or supplies for carrying on such work.

## CHANGE ORDERS

A Change Order is a written order signed by the PORT and the CONTRACTOR and issued after execution of the Contract, authorizing a change in the Work and/or adjustment in the date of contract closing. The amount of the Contract and the closing date can be changed only by Change order. The PORT, without invalidating the Contract, may order changes in the Work within the general scope of the Contract consisting of additions, deletions or other revisions, and the amount of the Contract shall be adjusted accordingly. Any addition or deletion requiring an adjustment to the cost or date of the contract must be approved by both parties by change order prior to execution.

## PERFORMANCE BONDS:

CONTRACTOR shall, at the time of delivery of this contract, furnish duly executed bonds, upon forms furnished or approved by the PORT, signed by an approved surety or sureties authorized to do business in the State of Washington, in the full amount of the contract price plus change orders, conditioned upon the faithful performance of the contract by the CONTRACTOR within the time prescribed therein. Such bond shall provide that the surety or sureties will agree to protect and indemnify the PORT against any direct or indirect loss that shall be suffered or claimed by reason of any or all of the following:

- A. The failure of the CONTRACTOR or any of the CONTRACTOR'S employees, subcontractors or agents to faithfully perform the said contract, or
- B. The failure of the CONTRACTOR to pay all laborers, mechanics, subcontractors, agents, material men, and all persons who shall supply such CONTRACTOR, subcontractor or agents with provision or supplies for carrying on such work.

At any time and as often as may be deemed necessary, the PORT may require any or all sureties or any surety company to appear and qualify themselves upon the bond. Whenever such surety or sureties are deemed by the PORT to have become insufficient, the PORT may demand in writing that the CONTRACTOR furnish additional surety in an amount not exceeding that

originally required as may be deemed necessary considering the work remaining to be done. No further payments will be made on the contract until such additional surety a required is furnished.

**PORT OF CAMAS-WASHOUGAL**

By

---

Date

**POWER NORTHWEST INC**

By

---

Date

## Attachment A

### Standard Terms

#### **1. Representatives**

The Port's Project Manager and Contractor's Representative for this Agreement are as specified. Alternate representatives may be appointed by either party with written notice to the other party.

#### **2. Key Personnel**

The Contractor's key personnel, as described in Contractor's selection submittals, shall remain assigned for the duration of the Project unless otherwise agreed to by the Port.

#### **3. Contract Administration, Records, and Right to Audit**

All communications with the Port will be through the Port's Project Manager. The Project Manager shall provide Contractor with all information and documents pertinent to the services Contractor is to perform.

Until the expiration of six years after the term of this Agreement, Contractor agrees to maintain accurate records of all work done in providing services specified by the Agreement and to deliver such records to the Port upon termination of the Agreement or otherwise as requested by the Port.

Upon the Port's request, Contractor shall make available to the Port all accounts, records, and documents related to the Scope of Work for the Port's inspection, auditing, or evaluation during normal business hours as reasonably needed by the Port to assess performance, compliance, and/or quality assurance under this Agreement.

#### **4. Relationship of Parties**

Contractor, is and shall be at all times during the term of this Contract, an independent Contractor, and not an employee of the Port. Nothing contained herein shall be deemed to create a relationship of employer and employee or of principal and agent.

This Agreement shall be for the sole benefit of the parties hereto, and nothing contained herein shall create a contractual relationship with, or create a cause of action in favor of, a third party against either party hereto.

#### **5. Conflict of Interest**

No officer, employee or agent of the Port who exercises any function or responsibilities in connection with the planning and carrying out of the program to which this Agreement pertains, nor any member of the immediate family of any such officer, employee or agent shall have any personal financial interest, direct or indirect, in this Agreement, either in fact or in appearance. Contractor further covenants that in performance of this Agreement, no person having any such interest shall be employed.

#### **6. Compliance with Laws**

Contractor shall, during the term of this Agreement, comply with all local, state, tribal and federal laws and regulations applicable to the project, including building codes, environmental protections, and permitting regulations existing at the time this Agreement was executed and those regarding employee safety, health, the work place environment, and employment eligibility verifications as required by the Immigration and Naturalization Service.

Contractor certifies that it has, or shall obtain prior to starting work under this Agreement, all licenses, registrations, permits and/or any other authorization required under federal, state, local or tribal law to perform the work as defined in this Agreement. Contractor agrees to indemnify and hold the Port harmless from and against any claims or demands made or brought against the Port and for costs (including, but not limited to attorneys' fees and costs), the Port incurs due to the Contractor's failure to: (1) comply with all applicable laws and regulations, and/or (2) have or maintain the required licenses, registrations, permits and/or other authorizations, as required by this Agreement.

In the event Contractor fails to pay any taxes, assessments, penalties, or fees imposed by any governmental body, including a court of law, then Contractor authorizes the Port to deduct and withhold or pay over to the appropriate governmental body those unpaid amounts upon demand made to the Port by the governmental body. Any such payments shall be deducted from Contractor's total compensation.

The Port shall furnish Contractor with the information required by the Hazard Communication standard for materials preexisting on the project site. Contractor will ensure that this information is made available to the Contractor's personnel and subcontractors, and incorporated into the contract documents as appropriate.

#### **7. Ownership of Work**

The services to be performed by Contractor shall be deemed instruments of service for purposes of the copyright laws of the United States. The Port has ownership rights to the plans, specifications, and other products prepared by the Contractor. Contractor shall not be responsible for changes made in the plans, specifications or other products by anyone other than the Contractor. Contractor shall have free right to retain, copy and use any tangible materials or information produced but only for its own internal purposes. Use of documents or other materials prepared under this Agreement for promotional purposes shall require the Port's prior consent.

8. **Standard of Care**

Contractor shall perform its work to conform to generally accepted professional standards. Contractor shall be responsible for the professional quality, technical adequacy and accuracy, timely completion and coordination of all plans, designs, drawings and specifications prepared under this Agreement. Contractor shall, without additional compensation, correct or revise any errors or omissions in such work.

9. **Disclosure**

All information developed by the Contractor and all information made available to the Contractor by the Port, and all analyses or opinions reached by the Contractor shall be confidential and shall not be disclosed by the Contractor without the written consent of the Port.

10. **Deliverables**

All tangible materials produced as a result of this Agreement shall be prepared as specified by the Port's Project Manager. Delivery of materials produced shall consist both of the tangible materials and one copy of any computer file used in the creation of the tangible product on floppy disk or CD-Rom in a PDF format or other format specified by the Port. Deliverable drawings shall be prepared in accordance with the Port's "Contractor Drawing Submittal Procedure" and "Technical Specification Development Procedure". The Port may offset from the Contractor's fee expenses incurred by the Port in correcting drawings or specifications not prepared in accordance with the Port's procedure.

11. **Indemnification**

Contractor shall indemnify, defend, and hold harmless the Port, its officials, officers, agents, and employees from any and all claims, damages, lawsuits, liabilities, losses, liens, expenses and costs arising out of the subject matter of this Agreement; provided that this provision shall not apply to the extent that damage or injury results from the fault of the Port, or its officers, agents, or employees. The term "fault" as used herein shall have the same meaning as set forth in RCW 4.22.015, as that statute may be amended.

Should a court of competent jurisdiction determine that this Agreement is subject to RCW 4.24.115, then, in the event of liability for damages arising out of bodily injuries or damages to property caused by or resulting from the concurrent negligence of the Contractor and the Port, its officers, officials, employees and volunteers, the Contractor's liability hereunder shall be only to the extent of the Contractor's negligence.

It is further specifically and expressly understood that the indemnification provided herein constitutes the Contractor's waiver of immunity under Industrial Insurance, Title 51 RCW, solely for the purposes of this indemnification.  
**CONTRACTOR RECOGNIZES THAT THIS WAIVER WAS THE SUBJECT OF MUTUAL NEGOTIATION**

The indemnification shall extend to and include attorney's fees and the cost of establishing the right of indemnification hereunder in favor of the Port. This indemnification shall survive the termination of this Agreement.

12. **Insurance**

Contractor shall obtain and keep in force during the terms of the Agreement, or as otherwise required, the following insurance with companies or through sources approved by the State Insurance Commissioner pursuant to RCW 48.

- a. Worker's Compensation and Employer's Liability insurance as required by the State.
- b. Commercial General Liability insurance in the amount of at least \$1,000,000 per occurrence; \$2,000,000 general aggregate.
- c. Automobile Public Liability Insurance coverage with total liability limits for Bodily Injury Liability and Property Damage Liability in the amount of \$1,000,000 per accident.
- d. All policies shall be issued by a company having an A. M. Best rating of A:VI or better. Each insurance policy shall be endorsed to state that coverage shall not be suspended, voided, canceled or reduced in coverage or limits except after 45 days prior written notice has been given to the Port. The Port shall be named as an additional insured on all policies on ISO Form CG 20 10 Form B. The certificates of insurance shall specify the project name, project number, and contract number.
- e. The Contractor must furnish the Port with verification of insurance and endorsements prior to any release of funds.
- f. Contractor shall ensure that each subconsultant of every tier obtain at a minimum the same insurance coverage and limits as stated herein for the Contractor. Upon request from the Port, the Contractor shall provide evidence of such insurance.

13. **Competitive Specification**

If the scope of work includes development of specifications:

Contractor shall provide for the maximum use of materials, equipment, construction methods and products that are readily available through competitive procurement, or through standard or proven production techniques.

Contractor shall not produce a design or specification which would be restrictive or written in a manner as to contain proprietary requirements other than those based on performance, unless such requirements are necessary to demonstrate a

specific outcome or to provide for necessary interchangeability of parts and equipment. Contractor shall justify in writing the use of any sole source. Where brand names are identified, they shall be followed by the salient product performance characteristics and the words "or approved equal" so that comparable quality or utility may be determined.

14. Time

Time is of the essence in the performance by the Contractor of the services required by this Agreement. The Contractor shall complete its services within the milestones set forth in the project schedule. At the end of each month the Contractor shall submit a copy of the current schedule and a written narrative description of the work accomplished, identifying scheduled milestones and the status thereof. The Contractor shall also address issues, which may result in completion beyond the established schedule or budget.

If the time allotted for completion of Contractor's services is exceeded through no fault of Contractor, additional time to complete performance may be allowed if written notice of the cost and estimated length of the delay is given to the Port within forty-eight (48) hours of Contractor's learning of the delay. Contractor will provide such additional supporting data as the Port may require in a timely manner. The sole remedy in the event of a delay, whatever its cause, is an extension of time for performance.

The Port may suspend this Agreement, at its sole discretion, upon one week's advance notice to Contractor. Such notice shall indicate the anticipated period of suspension. Any reimbursement for expenses incurred due to the suspension shall be limited to Contractor's reasonable expenses, and shall be subject to verification. Contractor shall resume performance of services under this Agreement without delay when the suspension period ends

15. Assignability

Contractor shall not assign any interest in this Agreement and shall not transfer any interest in the Agreement to any party without prior written consent of the Port.

16. Disputes

If a dispute arises relating to this Agreement and cannot be settled through direct discussions, the parties agree to endeavor to settle the dispute through a mediation firm acceptable to both parties, the cost of which shall be divided equally. The Port reserves the right to join any dispute under this Agreement with any other claim in litigation or other dispute resolution forum, and the Contractor agrees to such joinder, so that all disputes related to the project may be consolidated and resolved in one forum. Venue for any litigation shall be the Clark County Superior Court of the state of Washington and the prevailing party shall be entitled to recover its costs and reasonable attorney's fees.

17. Non-Discrimination

During the term of this Agreement, the Contractor shall not create barriers to open and fair opportunities to participate in Port contracts or to obtain or compete for contracts and subcontracts as sources of supplies, equipment, construction and services. During the performance of this Agreement, neither the Contractor nor any party subcontracting under the authority of this Agreement shall discriminate nor tolerate harassment on the basis of race, color, sex, religion, nationality, creed, marital status, sexual orientation, age, or the presence of any sensory, mental, or physical disability in the employment or application for employment or in the administration or delivery of services or any other benefits under this Agreement.

The selected Contractor shall comply fully with all applicable federal, state and local laws, ordinances, executive orders and regulations that prohibit such discrimination including RCW Chapter 49.60. The Contractor further agrees to comply with all applicable civil rights statutes and implementing regulations.

The Contractor shall cause the foregoing provision to be inserted in all subcontracts for any work covered by this Agreement so that such provisions shall be binding upon such third parties,

18. Safety.

Contractor expressly agrees that it shall be solely responsible for supervising its employees, that it shall comply with all rules, regulations, orders, standards and interpretations promulgated pursuant to the Occupational Safety and Health Act of 1970 [and to the Occupational and Safety Health Act of the State of Washington, including but not limited to training, provision of personal protective equipment, adherence to all appropriate lock out/tag out procedures, and providing all notices, material safety data sheets, labels, etc. required by the right-to-know standard.

19. Governing Law and Venue.

Washington law shall govern the interpretation of this Agreement. Clark County shall be the venue of any mediation, arbitration or litigation arising out of this Agreement.

20. Waiver.

A waiver of failure by either party to enforce any provision of this Agreement shall not be construed as a continuing waiver of such provision(s), nor shall the same constitute a waiver of any other provision of this Agreement.

21. Severability and Survival.

If any term, condition or provision of this Agreement is declared void or unenforceable or limited in its application or effect, such event shall not affect any other provisions hereof and all other provisions shall remain fully enforceable. The provisions of this Agreement, which by their sense and context are reasonably intended to survive completion, expiration or cancellation of this Agreement, shall survive termination of this Agreement.

22. Equal Opportunity to Draft.

The parties have participated and had an equal opportunity to participate in the drafting of this Agreement, and the Exhibits, if any, attached. No ambiguity shall be construed against any party upon a claim that that party drafted the ambiguous language.

23 Captions.

The captions used herein are for convenience only and are not a part of this Agreement and do not in any way limit or amplify the terms and provisions hereof.

24. Concurrent Originals.

This Agreement may be signed in counterpart originals.

25. Entire Agreement.

This Agreement represents the entire and integrated understanding between the Port and Contractor and may be amended only by written instrument signed by both the Port and Contractor. All previous or contemporaneous agreements, representations or promises and conditions relating to the subject matter of this Agreement are superseded hereby.

26. Authority to Enter Into This Agreement

The undersigned Contractor representative, by his/her signature below, represents and warrants that he/she is duly authorized to execute this legally binding Agreement for and on behalf of Contractor and further represents and warrants that he/she acknowledges reading this Agreement, understands it and agrees to be bound by its Terms and Conditions.

## **Program Specific Terms and Conditions**

As identified herein, notwithstanding General Terms and Conditions Sections, the following Program Specific Terms and Conditions take precedence over any similarly referenced Special or General Terms and Conditions:

### **1. SUBCONTRACTING (REPLACES GENERAL TERMS AND CONDITIONS #37)**

The Grantee shall maintain written procedures related to subcontracting, as well as copies of all subcontracts and records related to subcontracts. For cause, COMMERCE in writing may: (a) require the Grantee to amend its subcontracting procedures as they relate to this Agreement; (b) prohibit the Grantee from subcontracting with a particular person or entity; or (c) require the Grantee to rescind or amend a subcontract.

Every subcontract shall bind the Subcontractor to follow all applicable terms of this Agreement. The Grantee is responsible to COMMERCE if the Subcontractor fails to comply with any applicable term or condition of this Agreement. The Grantee shall appropriately monitor the activities of the Subcontractor to assure fiscal conditions of this Agreement. In no event shall the existence of a subcontract operate to release or reduce the liability of the Grantee to COMMERCE for any breach in the performance of the Grantee's duties.

Every subcontract shall include a term that COMMERCE and the State of Washington are not liable for claims or damages arising from a Subcontractor's performance of the subcontract.

### **2. TREATMENT OF ASSETS (REPLACES GENERAL TERMS AND CONDITIONS #43)**

The parties do not anticipate that Commerce will furnish property (other than the state funds granted herein) to Grantee for use in Grantee's performance under this Agreement; provided, however, that title to any other property that may be so furnished by Commerce shall remain in Commerce. Commerce claims no ownership for the materials, goods, or services purchased by the Grantee for the completion of this Agreement, regardless of reimbursement status under this agreement.

- A. Any property of Commerce furnished to the Grantee shall, unless otherwise provided herein or approved by Commerce, be used only for the performance of this agreement.
- B. The Grantee shall be responsible for any loss or damage to property of Commerce that results from the negligence of the Grantee or which results from the failure on the part of the Grantee to maintain and administer that property in accordance with sound management practices.
- C. If any Commerce property is lost, destroyed or damaged, the Grantee shall immediately notify Commerce and shall take all reasonable steps to protect the property from further damage.
- D. The Grantee shall surrender to Commerce all property of Commerce prior to settlement upon completion, termination or cancellation of this agreement

All reference to the Grantee under this clause shall also include Grantee's employees, agents or subcontractors.

### **3. SOLAR PLUS STORAGE FOR RESILIENT COMMUNITIES GRANT REQUIREMENTS**

Grantee agrees to comply with the requirements and follow the guidelines as outlined in the Request for Applications dated March 2023 (the "RFA"), incorporated by this reference as if fully set forth herein. In the event of conflict between the RFA and the agreement, the Agreement prevails.

### **4. REPORTING REQUIREMENTS**

During the construction phase of the Scope of Work, the Grantee must provide quarterly written reports to Commerce for project update purposes. Quarterly reports are due no later than 15 days after the end of each quarter for the quarter to be reported. The report form will be provided by Commerce. The intent is to collect a description of the project activity that occurred during the period, including but not limited to:

- a. A narrative summarizing project activities, risks and issues mitigated, and lessons learned;
- b. The project milestones met to date and anticipated in the subsequent quarter;
- c. Any additional metrics required from the capital budget proviso, legislature, governor's office, or Commerce;
- d. Quarterly updated budget projections for project expenditures;
- e. The grant expenditures to date and anticipated in the next quarter.

## **5. UNILATERAL AMENDMENT**

Commerce may, at any time, by written notification to the Contractor, unilaterally amend the scope of work to be performed under this Contract, the period of performance, and/or the contract amount and budget. These unilateral changes shall be effective as set forth in the amendment or upon signature by Commerce, if no date has been set forth.

The Contractor will be deemed to have accepted any such unilateral amendment unless, within fifteen (15) calendar days after the date the amendment is signed by Commerce, the Contractor notifies Commerce in writing of its non-acceptance of such unilateral change. The Contractor and Commerce will then use good faith efforts to negotiate an amendment acceptable to both parties.

Failure to reach agreement shall constitute a dispute concerning a question of fact within the meaning of the Disputes provision contained in this Contract. However, nothing in this provision shall excuse the Contractor from proceeding with the Contract as amended. Contractor must continue to provide the contracted services, including any unilaterally amended services, during any period of non-acceptance or negotiation of a unilateral amendment.

## **Special Terms and Conditions**

### **1. AUTHORITY**

COMMERCE and Contractor enter into this Contract pursuant to the authority granted by Chapter 39.34 RCW.

### **2. CONTRACT MANAGEMENT**

The Representative for each of the parties shall be responsible for and shall be the contact person for all communications and billings regarding the performance of this Contract.

The Representative for COMMERCE and their contact information are identified on the Face Sheet of this Contract.

The Representative for the Contractor and their contact information are identified on the Face Sheet of this Contract.

### **3. COMPENSATION**

COMMERCE shall pay an amount not to exceed \$61,800 for the performance of all things necessary for or incidental to the performance of work under this Contract as set forth in the Scope of Work. Contractor's compensation for services rendered shall be based on the schedule set forth in Attachment B: Budget.

### **4. BILLING PROCEDURES AND PAYMENT**

COMMERCE will pay Contractor upon acceptance of services provided and receipt of properly completed invoices, which shall be submitted to the Representative for COMMERCE via the Commerce Contracts Management System.

If required, the attachments to the invoice request in the Commerce Contracts Management System shall describe and document, to COMMERCE's satisfaction, a description of the work performed, the progress of the project, and fees. The invoice shall include the Contract Number 23-53701-228.

Payment shall be considered timely if made by COMMERCE within thirty (30) calendar days after receipt of properly completed invoices. Payment shall be sent to the address designated by the Contractor.

COMMERCE may, in its sole discretion, terminate the Contract or withhold payments claimed by the Contractor for services rendered if the Contractor fails to satisfactorily comply with any term or condition of this Contract.

No payments in advance or in anticipation of services or supplies to be provided under this Agreement shall be made by COMMERCE.

#### Invoices and End of Fiscal Year

Invoices are due on the 20th of the month following the provision of services.

Final invoices for a state fiscal year may be due sooner than the 20th and Commerce will provide notification of the end of fiscal year due date.

The Contractor must invoice for all expenses from the beginning of the contract through June 30, regardless of the contract start and end date.

#### Duplication of Billed Costs

The Contractor shall not bill COMMERCE for services performed under this Agreement, and COMMERCE shall not pay the Contractor, if the Contractor is entitled to payment or has been or will be paid by any other source, including grants, for that service.

### Disallowed Costs

The Contractor is responsible for any audit exceptions or disallowed costs incurred by its own organization or that of its subcontractors.

COMMERCE may, in its sole discretion, withhold ten percent (10%) from each payment until acceptance by COMMERCE of the final report (or completion of the project, etc.).

## **5. SUBCONTRACTOR DATA COLLECTION**

Contractor will submit reports, in a form and format to be provided by Commerce and at intervals as agreed by the parties, regarding work under this Contract performed by subcontractors and the portion of Contract funds expended for work performed by subcontractors, including but not necessarily limited to minority-owned, woman-owned, and veteran-owned business subcontractors. "Subcontractors" shall mean subcontractors of any tier.

## **6. HISTORICAL OR CULTURAL ARTIFACTS**

Prior to approval and disbursement of any funds awarded under this Contract, Contractor shall complete the requirements of Governor's Executive Order 21-02, where applicable, or Contractor shall complete a review under Section 106 of the National Historic Preservation Act, if applicable. Contractor agrees that the Contractor is legally and financially responsible for compliance with all laws, regulations, and agreements related to the preservation of historical or cultural resources and agrees to hold harmless COMMERCE and the state of Washington in relation to any claim related to such historical or cultural resources discovered, disturbed, or damaged as a result of the project funded by this Contract.

In addition to the requirements set forth in this Contract, Contractor shall, in accordance with Governor's Executive Order 21-02 coordinate with Commerce and the Washington State Department of Archaeology and Historic Preservation ("DAHP"), including any recommended consultation with any affected tribe(s), during Project design and prior to construction to determine the existence of any tribal cultural resources affected by Project. Contractor agrees to avoid, minimize, or mitigate impacts to the cultural resource as a continuing prerequisite to receipt of funds under this Contract.

The Contractor agrees that, unless the Contractor is proceeding under an approved historical and cultural monitoring plan or other memorandum of agreement, if historical or cultural artifacts are discovered during construction, the Contractor shall immediately stop construction and notify the local historical preservation officer and the state's historical preservation officer at DAHP, and the Commerce Representative identified on the Face Sheet. If human remains are uncovered, the Contractor shall report the presence and location of the remains to the coroner and local enforcement immediately, then contact DAHP and the concerned tribe's cultural staff or committee.

The Contractor shall require this provision to be contained in all subcontracts for work or services related to the Scope of Work attached hereto.

In addition to the requirements set forth in this Contract, Contractor agrees to comply with RCW 27.44 regarding Indian Graves and Records; RCW 27.53 regarding Archaeological Sites and Resources; RCW 68.60 regarding Abandoned and Historic Cemeteries and Historic Graves; and WAC 25-48 regarding Archaeological Excavation and Removal Permit.

Completion of the requirements of Section 106 of the National Historic Preservation Act shall substitute for completion of Governor's Executive Order 21-02.

In the event that the Contractor finds it necessary to amend the Scope of Work the Contractor may be required to re-comply with Governor's Executive Order 21-02 or Section 106 of the National Historic Preservation Act.

## **7. INSURANCE**

Each party certifies that it is self-insured under the State's or local government self-insurance liability program, and shall be responsible for losses for which it is found liable.

## **8. FRAUD AND OTHER LOSS REPORTING**

Contractor shall report in writing all known or suspected fraud or other loss of any funds or other property furnished under this Contract immediately or as soon as practicable to the Commerce Representative identified on the Face Sheet.

## **9. ORDER OF PRECEDENCE**

In the event of an inconsistency in this Contract, the inconsistency shall be resolved by giving precedence in the following order:

- Applicable federal and state of Washington statutes and regulations
- Attachment C – Proviso
- Program Specific Terms and Conditions
- Special Terms and Conditions
- General Terms and Conditions
- Attachment A – Scope of Work
- Attachment B – Budget

## **General Terms and Conditions**

### **1. DEFINITIONS**

As used throughout this Contract, the following terms shall have the meaning set forth below:

- A.** "Authorized Representative" shall mean the Director and/or the designee authorized in writing to act on the Director's behalf.
- B.** "COMMERCE" shall mean the Washington Department of Commerce.
- C.** "Contract" or "Agreement" or "Grant" means the entire written agreement between COMMERCE and the Contractor, including any Attachments, documents, or materials incorporated by reference. E-mail or Facsimile transmission of a signed copy of this contract shall be the same as delivery of an original.
- D.** "Contractor" or "Grantee" shall mean the entity identified on the face sheet performing service(s) under this Contract, and shall include all employees and agents of the Contractor.
- E.** "Personal Information" shall mean information identifiable to any person, including, but not limited to, information that relates to a person's name, health, finances, education, business, use or receipt of governmental services or other activities, addresses, telephone numbers, social security numbers, driver license numbers, other identifying numbers, and any financial identifiers, and "Protected Health Information" under the federal Health Insurance Portability and Accountability Act of 1996 (HIPAA).
- F.** "State" shall mean the state of Washington.
- G.** "Subcontractor" shall mean one not in the employment of the Contractor, who is performing all or part of those services under this Contract under a separate contract with the Contractor. The terms "subcontractor" and "subcontractors" mean subcontractor(s) in any tier.

### **2. ALLOWABLE COSTS**

Costs allowable under this Contract are actual expenditures according to an approved budget up to the maximum amount stated on the Contract Award or Amendment Face Sheet.

### **3. ALL WRITINGS CONTAINED HEREIN**

This Contract contains all the terms and conditions agreed upon by the parties. No other understandings, oral or otherwise, regarding the subject matter of this Contract shall be deemed to exist or to bind any of the parties hereto.

### **4. AMENDMENTS**

This Contract may be amended by mutual agreement of the parties. Such amendments shall not be binding unless they are in writing and signed by personnel authorized to bind each of the parties.

### **5. AMERICANS WITH DISABILITIES ACT (ADA) OF 1990, PUBLIC LAW 101-336, also referred to as the "ADA" 28 CFR Part 35**

The Contractor must comply with the ADA, which provides comprehensive civil rights protection to individuals with disabilities in the areas of employment, public accommodations, state and local government services, and telecommunications.

**6. APPROVAL**

This contract shall be subject to the written approval of COMMERCE's Authorized Representative and shall not be binding until so approved. The contract may be altered, amended, or waived only by a written amendment executed by both parties.

**7. ASSIGNMENT**

Neither this Contract, work thereunder, nor any claim arising under this Contract, shall be transferred or assigned by the Contractor without prior written consent of COMMERCE.

**8. ATTORNEYS' FEES**

Unless expressly permitted under another provision of the Contract, in the event of litigation or other action brought to enforce Contract terms, each party agrees to bear its own attorneys' fees and costs.

**9. CODE REQUIREMENTS**

All construction and rehabilitation projects must satisfy the requirements of applicable local, state, and federal building, mechanical, plumbing, fire, energy and barrier-free codes. Compliance with the Americans with Disabilities Act of 1990 28 C.F.R. Part 35 will be required, as specified by the local building Department.

**10. CONFIDENTIALITY AND SAFEGUARDING OF INFORMATION**

A. "Confidential Information" as used in this section includes:

- i. All material provided to the Contractor by COMMERCE that is designated as "confidential" by COMMERCE;
  - ii. All material produced by the Contractor that is designated as "confidential" by COMMERCE; and
  - iii. All Personal Information in the possession of the Contractor that may not be disclosed under state or federal law.
- B. The Contractor shall comply with all state and federal laws related to the use, sharing, transfer, sale, or disclosure of Confidential Information. The Contractor shall use Confidential Information solely for the purposes of this Contract and shall not use, share, transfer, sell or disclose any Confidential Information to any third party except with the prior written consent of COMMERCE or as may be required by law. The Contractor shall take all necessary steps to assure that Confidential Information is safeguarded to prevent unauthorized use, sharing, transfer, sale or disclosure of Confidential Information or violation of any state or federal laws related thereto. Upon request, the Contractor shall provide COMMERCE with its policies and procedures on confidentiality. COMMERCE may require changes to such policies and procedures as they apply to this Contract whenever COMMERCE reasonably determines that changes are necessary to prevent unauthorized disclosures. The Contractor shall make the changes within the time period specified by COMMERCE. Upon request, the Contractor shall immediately return to COMMERCE any Confidential Information that COMMERCE reasonably determines has not been adequately protected by the Contractor against unauthorized disclosure.
- C. Unauthorized Use or Disclosure. The Contractor shall notify COMMERCE within five (5) working days of any unauthorized use or disclosure of any confidential information, and shall take necessary steps to mitigate the harmful effects of such use or disclosure.

**11. CONFORMANCE**

If any provision of this contract violates any statute or rule of law of the state of Washington, it is considered modified to conform to that statute or rule of law.

## **12. CONFLICT OF INTEREST**

Notwithstanding any determination by the Executive Ethics Board or other tribunal, COMMERCE may, in its sole discretion, by written notice to the Contractor terminate this contract if it is found after due notice and examination by COMMERCE that there is a violation of the Ethics in Public Service Act, Chapters 42.52 RCW and 42.23 RCW; or any similar statute involving the Contractor in the procurement of, or performance under this contract.

Specific restrictions apply to contracting with current or former state employees pursuant to chapter 42.52 of the Revised Code of Washington. The Contractor and their subcontractor(s) must identify any person employed in any capacity by the state of Washington that worked with the COMMERCE program executing this Contract, including but not limited to formulating or drafting the legislation, participating in procurement planning and execution, awarding contracts, and monitoring contract, during the 24-month period preceding the start date of this Contract. Identify the individual by name, the agency previously or currently employed by, job title or position held, and separation date. If it is determined by Commerce that a conflict of interest exists, the Contractor may be disqualified from further consideration for the award of a Contract.

In the event this contract is terminated as provided above, Commerce shall be entitled to pursue the same remedies against the Contractor as it could pursue in the event of a breach of the contract by the Contractor. The rights and remedies of Commerce provided for in this clause shall not be exclusive and are in addition to any other rights and remedies provided by law. The existence of facts upon which Commerce makes any determination under this clause shall be an issue and may be reviewed as provided in the "Disputes" clause of this contract.

## **13. COPYRIGHT**

Unless otherwise provided, all Materials produced under this Contract shall be considered "works for hire" as defined by the U.S. Copyright Act and shall be owned by COMMERCE. COMMERCE shall be considered the author of such Materials. In the event the Materials are not considered "works for hire" under the U.S. Copyright laws, the Contractor hereby irrevocably assigns all right, title, and interest in all Materials, including all intellectual property rights, moral rights, and rights of publicity to COMMERCE effective from the moment of creation of such Materials.

"Materials" means all items in any format and includes, but is not limited to, data, reports, documents, pamphlets, advertisements, books, magazines, surveys, studies, computer programs, films, tapes, and/or sound reproductions. "Ownership" includes the right to copyright, patent, register and the ability to transfer these rights.

For Materials that are delivered under the Contract, but that incorporate pre-existing materials not produced under the Contract, the Contractor hereby grants to COMMERCE a nonexclusive, royalty-free, irrevocable license (with rights to sublicense to others) in such Materials to translate, reproduce, distribute, prepare derivative works, publicly perform, and publicly display. The Contractor warrants and represents that the Contractor has all rights and permissions, including intellectual property rights, moral rights and rights of publicity, necessary to grant such a license to COMMERCE.

The Contractor shall exert all reasonable effort to advise COMMERCE, at the time of delivery of Materials furnished under this Contract, of all known or potential invasions of privacy contained therein and of any portion of such document which was not produced in the performance of this Contract. The Contractor shall provide COMMERCE with prompt written notice of each notice or claim of infringement received by the Contractor with respect to any Materials delivered under this Contract. COMMERCE shall have the right to modify or remove any restrictive markings placed upon the Materials by the Contractor.

## **14. DISALLOWED COSTS**

The Contractor is responsible for any audit exceptions or disallowed costs incurred by its own organization or that of its Subcontractors.

**15. DISPUTES**

In the event that a dispute arises under this Agreement, it shall be determined by a Dispute Board in the following manner: Each party to this Agreement shall appoint one member to the Dispute Board. The members so appointed shall jointly appoint an additional member to the Dispute Board. The Dispute Board shall review the facts, Agreement terms and applicable statutes and rules and make a determination of the dispute. The Dispute Board shall thereafter decide the dispute with the majority prevailing. The determination of the Dispute Board shall be final and binding on the parties hereto. As an alternative to this process, either of the parties may request intervention by the Governor, as provided by RCW 43.17.330, in which event the Governor's process will control.

**16. DUPLICATE PAYMENT**

Contractor certifies that work to be performed under this contract does not duplicate any work to be charged against any other contract, subcontract, or other source.

**17. GOVERNING LAW AND VENUE**

This Contract shall be construed and interpreted in accordance with the laws of the state of Washington, and the venue of any action brought hereunder shall be in the Superior Court for Thurston County.

**18. INDEMNIFICATION**

Each party shall be solely responsible for the acts of its employees, officers, and agents.

**19. INDEPENDENT CAPACITY OF THE CONTRACTOR**

The parties intend that an independent contractor relationship will be created by this Contract. The Contractor and its employees or agents performing under this Contract are not employees or agents of the state of Washington or COMMERCE. The Contractor will not hold itself out as or claim to be an officer or employee of COMMERCE or of the state of Washington by reason hereof, nor will the Contractor make any claim of right, privilege or benefit which would accrue to such officer or employee under law. Conduct and control of the work will be solely with the Contractor.

**20. INDUSTRIAL INSURANCE COVERAGE**

The Contractor shall comply with all applicable provisions of Title 51 RCW. If the Contractor fails to provide industrial insurance coverage or fails to pay premiums or penalties on behalf of its employees as may be required by law, COMMERCE may collect from the Contractor the full amount payable to the Industrial Insurance Accident Fund. COMMERCE may deduct the amount owed by the Contractor to the accident fund from the amount payable to the Contractor by COMMERCE under this Contract, and transmit the deducted amount to the Department of Labor and Industries, (L&I) Division of Insurance Services. This provision does not waive any of L&I's rights to collect from the Contractor.

**21. LAWS**

The Contractor shall comply with all applicable laws, ordinances, codes, regulations and policies of local, state, and federal governments, as now or hereafter amended.

**22. LICENSING, ACCREDITATION AND REGISTRATION**

The Contractor shall comply with all applicable local, state, and federal licensing, accreditation and registration requirements or standards necessary for the performance of this Contract.

**23. LIMITATION OF AUTHORITY**

Only the Authorized Representative or Authorized Representative's designee by writing (designation to be made prior to action) shall have the express, implied, or apparent authority to alter, amend, modify, or waive any clause or condition of this Contract.

**24. LOCAL PUBLIC TRANSPORTATION COORDINATION**

Where applicable, Contractor shall participate in local public transportation forums and implement strategies designed to ensure access to services.

**25. NONCOMPLIANCE WITH NONDISCRIMINATION LAWS**

During the performance of this Contract, the Contractor shall comply with all federal, state, and local nondiscrimination laws, regulations and policies. In the event of the Contractor's non-compliance or refusal to comply with any nondiscrimination law, regulation or policy, this Contract may be rescinded, canceled or terminated in whole or in part, and the Contractor may be declared ineligible for further contracts with COMMERCE. The Contractor shall, however, be given a reasonable time in which to cure this noncompliance. Any dispute may be resolved in accordance with the "Disputes" procedure set forth herein.

The funds provided under this contract may not be used to fund religious worship, exercise, or instruction. No person shall be required to participate in any religious worship, exercise, or instruction in order to have access to the facilities funded by this contract.

**26. PAY EQUITY**

The Contractor agrees to ensure that "similarly employed" individuals in its workforce are compensated as equals, consistent with the following:

- A. Employees are "similarly employed" if the individuals work for the same employer, the performance of the job requires comparable skill, effort, and responsibility, and the jobs are performed under similar working conditions. Job titles alone are not determinative of whether employees are similarly employed;
- B. Contractor may allow differentials in compensation for its workers if the differentials are based in good faith and on any of the following:
  - i. A seniority system; a merit system; a system that measures earnings by quantity or quality of production; a bona fide job-related factor or factors; or a bona fide regional difference in compensation levels.
  - ii. A bona fide job-related factor or factors may include, but not be limited to, education, training, or experience that is: Consistent with business necessity; not based on or derived from a gender-based differential; and accounts for the entire differential.
  - iii. A bona fide regional difference in compensation level must be: Consistent with business necessity; not based on or derived from a gender-based differential; and account for the entire differential.

This Contract may be terminated by the Department, if the Department or the Department of Enterprise Services determines that the Contractor is not in compliance with this provision.

**27. POLITICAL ACTIVITIES**

Political activity of Contractor's employees and officers are limited by the State Campaign Finances and Lobbying provisions of Chapter 42.17A RCW and the Federal Hatch Act, 5 USC 1501 - 1508.

No funds may be used for working for or against ballot measures or for or against the candidacy of any person for public office.

**28. PREVAILING WAGE LAW**

The Contractor certifies that all contractors and subcontractors performing work on the Project shall comply with state Prevailing Wages on Public Works, Chapter 39.12 RCW, as applicable to the Project funded by this contract, including but not limited to the filing of the "Statement of Intent to Pay Prevailing Wages" and "Affidavit of Wages Paid" as required by RCW 39.12.040. The Contractor shall

maintain records sufficient to evidence compliance with Chapter 39.12 RCW, and shall make such records available for COMMERCE's review upon request.

#### **29. PROHIBITION AGAINST PAYMENT OF BONUS OR COMMISSION**

The funds provided under this Contract shall not be used in payment of any bonus or commission for the purpose of obtaining approval of the application for such funds or any other approval or concurrence under this Contract provided, however, that reasonable fees or bona fide technical consultant, managerial, or other such services, other than actual solicitation, are not hereby prohibited if otherwise eligible as project costs.

#### **30. PUBLICITY**

The Contractor agrees not to publish or use any advertising or publicity materials in which the state of Washington or COMMERCE's name is mentioned, or language used from which the connection with the state of Washington's or COMMERCE's name may reasonably be inferred or implied, without the prior written consent of COMMERCE.

#### **31. RECAPTURE**

In the event that the Contractor fails to perform this Contract in accordance with state laws, federal laws, and/or the provisions of this Contract, COMMERCE reserves the right to recapture funds in an amount to compensate COMMERCE for the noncompliance in addition to any other remedies available at law or in equity.

Repayment by the Contractor of funds under this recapture provision shall occur within the time period specified by COMMERCE. In the alternative, COMMERCE may recapture such funds from payments due under this Contract.

#### **32. RECORDS MAINTENANCE**

The Contractor shall maintain books, records, documents, data and other evidence relating to this contract and performance of the services described herein, including but not limited to accounting procedures and practices that sufficiently and properly reflect all direct and indirect costs of any nature expended in the performance of this contract.

The Contractor shall retain such records for a period of six years following the date of final payment. At no additional cost, these records, including materials generated under the contract, shall be subject at all reasonable times to inspection, review or audit by COMMERCE, personnel duly authorized by COMMERCE, the Office of the State Auditor, and federal and state officials so authorized by law, regulation or agreement.

If any litigation, claim or audit is started before the expiration of the six (6) year period, the records shall be retained until all litigation, claims, or audit findings involving the records have been resolved.

#### **33. REGISTRATION WITH DEPARTMENT OF REVENUE**

If required by law, the Contractor shall complete registration with the Washington State Department of Revenue.

#### **34. RIGHT OF INSPECTION**

At no additional cost all records relating to the Contractor's performance under this Contract shall be subject at all reasonable times to inspection, review, and audit by COMMERCE, the Office of the State Auditor, and federal and state officials so authorized by law, in order to monitor and evaluate performance, compliance, and quality assurance under this Contract. The Contractor shall provide access to its facilities for this purpose.

#### **35. SAVINGS**

In the event funding from state, federal, or other sources is withdrawn, reduced, or limited in any way after the effective date of this Contract and prior to normal completion, COMMERCE may suspend or terminate the Contract under the "Termination for Convenience" clause, without the ten calendar day

notice requirement. In lieu of termination, the Contract may be amended to reflect the new funding limitations and conditions.

### **36. SEVERABILITY**

The provisions of this contract are intended to be severable. If any term or provision is illegal or invalid for any reason whatsoever, such illegality or invalidity shall not affect the validity of the remainder of the contract.

### **37. SUBCONTRACTING (REPLACED BY PROGRAM-SPECIFIC TERMS AND CONDITIONS #1)**

~~The Contractor may only subcontract work contemplated under this Contract if it obtains the prior written approval of COMMERCE.~~

~~If COMMERCE approves subcontracting, the Contractor shall maintain written procedures related to subcontracting, as well as copies of all subcontracts and records related to subcontracts. For cause, COMMERCE in writing may: (a) require the Contractor to amend its subcontracting procedures as they relate to this Contract; (b) prohibit the Contractor from subcontracting with a particular person or entity; or (c) require the Contractor to rescind or amend a subcontract.~~

~~Every subcontract shall bind the Subcontractor to follow all applicable terms of this Contract. The Contractor is responsible to COMMERCE if the Subcontractor fails to comply with any applicable term or condition of this Contract. The Contractor shall appropriately monitor the activities of the Subcontractor to assure fiscal conditions of this Contract. In no event shall the existence of a subcontract operate to release or reduce the liability of the Contractor to COMMERCE for any breach in the performance of the Contractor's duties.~~

~~Every subcontract shall include a term that COMMERCE and the State of Washington are not liable for claims or damages arising from a Subcontractor's performance of the subcontract.~~

### **38. SURVIVAL**

The terms, conditions, and warranties contained in this Contract that by their sense and context are intended to survive the completion of the performance, cancellation or termination of this Contract shall so survive.

### **39. TAXES**

All payments accrued on account of payroll taxes, unemployment contributions, the Contractor's income or gross receipts, any other taxes, insurance or expenses for the Contractor or its staff shall be the sole responsibility of the Contractor.

### **40. TERMINATION FOR CAUSE**

In the event COMMERCE determines the Contractor has failed to comply with the conditions of this contract in a timely manner, COMMERCE has the right to suspend or terminate this contract. Before suspending or terminating the contract, COMMERCE shall notify the Contractor in writing of the need to take corrective action. If corrective action is not taken within 30 calendar days, the contract may be terminated or suspended.

In the event of termination or suspension, the Contractor shall be liable for damages as authorized by law including, but not limited to, any cost difference between the original contract and the replacement or cover contract and all administrative costs directly related to the replacement contract, e.g., cost of the competitive bidding, mailing, advertising and staff time.

COMMERCE reserves the right to suspend all or part of the contract, withhold further payments, or prohibit the Contractor from incurring additional obligations of funds during investigation of the alleged compliance breach and pending corrective action by the Contractor or a decision by COMMERCE to terminate the contract. A termination shall be deemed a "Termination for Convenience" if it is determined that the Contractor: (1) was not in default; or (2) failure to perform was outside of his or her control, fault or negligence.

The rights and remedies of COMMERCE provided in this contract are not exclusive and are, in addition to any other rights and remedies, provided by law.

#### **41. TERMINATION FOR CONVENIENCE**

Except as otherwise provided in this Contract, COMMERCE may, by ten (10) business days' written notice, beginning on the second day after the mailing, terminate this Contract, in whole or in part. If this Contract is so terminated, COMMERCE shall be liable only for payment required under the terms of this Contract for services rendered or goods delivered prior to the effective date of termination.

#### **42. TERMINATION PROCEDURES**

Upon termination of this contract, COMMERCE, in addition to any other rights provided in this contract, may require the Contractor to deliver to COMMERCE any property specifically produced or acquired for the performance of such part of this contract as has been terminated. The provisions of the "Treatment of Assets" clause shall apply in such property transfer.

COMMERCE shall pay to the Contractor the agreed upon price, if separately stated, for completed work and services accepted by COMMERCE, and the amount agreed upon by the Contractor and COMMERCE for (i) completed work and services for which no separate price is stated, (ii) partially completed work and services, (iii) other property or services that are accepted by COMMERCE, and (iv) the protection and preservation of property, unless the termination is for default, in which case the Authorized Representative shall determine the extent of the liability of COMMERCE. Failure to agree with such determination shall be a dispute within the meaning of the "Disputes" clause of this contract. COMMERCE may withhold from any amounts due the Contractor such sum as the Authorized Representative determines to be necessary to protect COMMERCE against potential loss or liability.

The rights and remedies of COMMERCE provided in this section shall not be exclusive and are in addition to any other rights and remedies provided by law or under this contract.

After receipt of a notice of termination, and except as otherwise directed by the Authorized Representative, the Contractor shall:

- A. Stop work under the contract on the date, and to the extent specified, in the notice;
- B. Place no further orders or subcontracts for materials, services, or facilities except as may be necessary for completion of such portion of the work under the contract that is not terminated;
- C. Assign to COMMERCE, in the manner, at the times, and to the extent directed by the Authorized Representative, all of the rights, title, and interest of the Contractor under the orders and subcontracts so terminated, in which case COMMERCE has the right, at its discretion, to settle or pay any or all claims arising out of the termination of such orders and subcontracts;
- D. Settle all outstanding liabilities and all claims arising out of such termination of orders and subcontracts, with the approval or ratification of the Authorized Representative to the extent the Authorized Representative may require, which approval or ratification shall be final for all the purposes of this clause;
- E. Transfer title to COMMERCE and deliver in the manner, at the times, and to the extent directed by the Authorized Representative any property which, if the contract had been completed, would have been required to be furnished to COMMERCE;
- F. Complete performance of such part of the work as shall not have been terminated by the Authorized Representative; and
- G. Take such action as may be necessary, or as the Authorized Representative may direct, for the protection and preservation of the property related to this contract, which is in the possession of the Contractor and in which COMMERCE has or may acquire an interest.

**43. TREATMENT OF ASSETS (REPLACED BY PROGRAM-SPECIFIC TERMS AND CONDITIONS #2)**

~~Title to all property furnished by COMMERCE shall remain in COMMERCE. Title to all property furnished by the Contractor, for the cost of which the Contractor is entitled to be reimbursed as a direct item of cost under this contract, shall pass to and vest in COMMERCE upon delivery of such property by the Contractor. Title to other property, the cost of which is reimbursable to the Contractor under this contract, shall pass to and vest in COMMERCE upon (i) issuance for use of such property in the performance of this contract, or (ii) commencement of use of such property in the performance of this contract, or (iii) reimbursement of the cost thereof by COMMERCE in whole or in part, whichever first occurs.~~

- ~~A. Any property of COMMERCE furnished to the Contractor shall, unless otherwise provided herein or approved by COMMERCE, be used only for the performance of this contract.~~
- ~~B. The Contractor shall be responsible for any loss or damage to property of COMMERCE that results from the negligence of the Contractor or which results from the failure on the part of the Contractor to maintain and administer that property in accordance with sound management practices.~~
- ~~C. If any COMMERCE property is lost, destroyed or damaged, the Contractor shall immediately notify COMMERCE and shall take all reasonable steps to protect the property from further damage.~~
- ~~D. The Contractor shall surrender to COMMERCE all property of COMMERCE prior to settlement upon completion, termination or cancellation of this contract.~~
- ~~E. All reference to the Contractor under this clause shall also include Contractor's employees, agents or Subcontractors.~~

**44. WAIVER**

Waiver of any default or breach shall not be deemed to be a waiver of any subsequent default or breach. Any waiver shall not be construed to be a modification of the terms of this Contract unless stated to be such in writing and signed by Authorized Representative of COMMERCE.

**Project Name:** Administrative Building

**Project Location:** 24 South A Street, Washougal Washington 98671

**Project Description:** This project is funded by the Solar Plus Storage for Resilient Communities grant from the Washington State Department of Commerce. The grant purpose is to increase solar deployment and installation of battery storage in community buildings to enhance grid resiliency and provide backup power for critical needs during outages.

#### **System Size**

Solar array size (kW DC): 22.4	Battery energy storage system size (kw): 6.7
Solar array size (kW AC): 22.8	Battery energy storage system size (kWh): 18

**Major Components – Roof Mounted** (Changes to materials are not allowed without DOC Approval)

<b>Quantity</b>	<b>Make and Model</b>	<b>Equipment</b>
56	Silfab Solar SIL -400HC	Solar Modules
2	Generac PWRCell 11.4kw inverter	Inverters
8	Generac PWRCell PV Links	String level power electronics
375 ft	Iron Ridge	Racking
1	Generac PWRCell 18kWh	Batteries

#### **Project Development and Design**

1. Project development and design work to ensure the project is ready for construction.  
Equipment must be compliant with IEEE Standard 1547.
2. The solar system and battery energy storage system must meet all applicable industry standards and codes including, but not limited to: UL 1741, International Building Code, International Fire Code, National Electric Code

#### **Contracting and Permitting**

1. Procure all equipment and subcontractors to complete project.
2. Apply for and secure applicable permits including but not limited to electrical, building, and fire marshal.
3. Apply for utility interconnection and secure agreement with Clark Public Utilities.

## **Equipment Delivery, Installation and Construction**

1. Complete site preparation and restoration activities related to mounting type as required to complete the project, including concrete pads, fencing and gravel or other surfacing as needed for safety, code requirements, access, or to prevent vandalism of the equipment. Restore disturbed areas and vegetation.
2. Provide and install electrical gear and feeders required to connect solar system and BESS to existing electrical service, including critical loads panels, transformer upgrades, and other necessary electrical changes identified in the original funding application.
3. Supply and install a solar array including equipment listed above.
4. Supply and install BESS including equipment listed above.
5. Install all equipment necessary to enable the solar system and BESS to safely operate independently of the electric grid in an outage.
6. Any electrical and control system integration with other generators. Purchase and installation of generators other than the solar generator described above is not included in this scope.
7. Procure and set up monitoring software. Ensure software is monitoring correctly.
8. Pass required inspections.
9. Accurately communicate scheduling any electrical outages.
10. Battery storage may be located on the west side of the building, outside.

## **Systems Integration and Commissioning**

1. Commission solar PV system and verify all system components are properly designed, installed, and optimized.
2. Test full functional system and confirm whole system operation follows design intent as described in application.
3. Test control system that allows the system to operate independently of the grid in an outage.

Green area shows the south facing rooftop of the administrative building.



THE  
PORT OF  
CAMAS WASHOUGAL

## BID RESPONSE FORM

TO: Port of Camas/Washougal  
24 South 'A' Street  
Washougal, WA 98671

Project: Administrative Building Solar Project

Bids Due: March 19, 2024 @ 3pm  
Port's Administrative Office  
24 SOUTH. "A" STREET  
WASHOUGAL, WA 98671

In submitting this bid, I agree:

1. To hold my bid open for sixty (60) calendar days;
2. To accept the provisions of the Instructions to Bidders;
3. To enter into and execute a Contract, if awarded on the basis of this bid, and to furnish all Bonds in accordance with the Instructions to Bidders;
4. That the Port reserves the right to waive any informalities or irregularities or to reject any or all bids. The Port also reserves the right to accept or reject alternate bids in any order or combination.
5. That I have carefully examined the Contract Documents, as well as the site of the project and conditions affecting the work, and to furnish all the labor, materials, equipment, superintendence, insurance and other accessories and services necessary to perform and complete all of the work required in strict accordance with the above-named documents and the implied intent thereof.
6. To be bound by the Instructions to Bidders which are incorporated into the Bid Response Form as if fully set forth herein.

In accordance with RCW 39.04.350 (1), before award of a public works contract, a Bidder must meet the following responsibility criteria to be considered a responsible bidder and qualified to be awarded a public works project.

The Bidder must:

1. At the time of bid submittal, have a certificate of registration in compliance with chapter 18.27 RCW;
2. Have a current state unified business identifier (UBI) number;
3. If applicable, have industrial insurance coverage for the Bidder's employees working in Washington as required in Title 51 RCW;
4. If applicable, have an employment security department number as required in Title 50 RCW;
5. If applicable, have a state excise tax registration number as required in Title 82 RCW;
6. Not be disqualified from bidding on any public works contract under RCW 39.06.010 or 39.12.065(3).
7. If bidding on a public works project subject to the apprenticeship utilization requirements in RCW 39.04.320, not have been found out of compliance by the Washington state apprenticeship and training council for working apprentices out of ratio, without appropriate supervision, or outside their approved work processes as outlined in their standards of apprenticeship under chapter 40.04 RCW for the one-year period immediately preceding the date of the bid solicitation; and
8. Have received training on the requirements related to public works and prevailing wage under this chapter and chapter 39.12 RCW.

In accordance with RCW 39.06, a public works contractor must verify responsibility criteria for each first tier subcontractor, and a subcontractor of any tier that hires other subcontractors must verify responsibility criteria for each of its subcontractors. Verification shall include that each subcontractor, at the time of subcontract execution, meets the responsibility criteria listed in RCW 39.04.350(1) and possesses an electrical contractor license, if required by RCW 19.28, or an elevator contractor license, if required by RCW 70.87, or a plumbing contractor license [,] if required by chapter 18.106 RCW. This verification requirement, as well as the responsibility criteria, must be included in every public works contract and subcontract of every tier.

Providing the following information is **MANDATORY** in order to meet "Responsible Bidder" requirements. Failure to provide this information may disqualify your bid as being "Non-Responsive"

WA Contractor's License No. POWERNI785NU Expiration Date 8/31/24

WA Business License (UBI) No. 604-648-194

Business for which issued Power Northwest Inc.

Industrial Insurance Coverage No. CMV-PLI-0036284-01

State Excise Tax Registration No. A42815224 (Resller Permit Number)

Employment Security Department No. 100025308

Federal Tax Identification No. 84-4119864

The undersigned operates as (check appropriate space):

an individual,  a partnership,  a joint venture,  a corporation incorporated in the State of OR

The undersigned acknowledges receipt of the following addenda to the Drawings and/or Specifications (list number and date of each; if no addenda are acknowledged, write "none"):

Addendum \_\_\_\_\_ Date \_\_\_\_\_

Addendum \_\_\_\_\_ Date \_\_\_\_\_

NAME AND ADDRESS OF FIRM OR INDIVIDUAL SUBMITTING BID (type or print):

Power Northwest Inc.

2711 NW Saint Helens Rd. Portland, OR 97210

NAME(S) AND TITLE(S) OF PARTNER(S) (type or print): Garrett Hartwell - Owner

Contact: Garrett Hartwell Telephone: 503-304-4357 Email: garrett@powernw.com

Base bid \$ 102,486.00

WA State sales tax\* \$ 7,993.94

**TOTAL COST TO PORT** \$ 110,480.39

[\*Any work done inside Clark County which is taxable, is at the rate of 7.8%.]

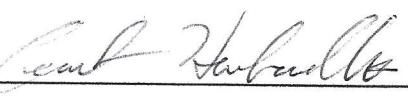
**PLEASE ATTACH ALL SUPPORTING QUOTE INFORMATION TO THIS FORM**

### NON-COLLUSION DECLARATION

I, by signing the proposal, hereby declare, under penalty of perjury under the laws of the United States that the following statements are true and correct:

That the undersigned person(s), firm, association or corporation has (have) not, either directly or indirectly, entered into any agreement, participated in any collusion, or otherwise taken any action in restraint of free competitive bidding in connection with the project for which this proposal is submitted.

That by signing the signature page of this proposal, I am deemed to have signed and to have agreed to the provisions of this declaration.

By (signature in ink): 

Print name and title: Garrett Hartwell - Owner

STATE  
REPORT  
LAWRENCE COUNTY

## Certification of Compliance with Wage Payment Statutes

The bidder hereby certifies that, within the three-year period immediately preceding the bid solicitation date February 27, 2024, the bidder is not a "willful" violator, as defined in RCW 49.48.082, of any provision of chapters 49.46, 49.48, or 49.52 RCW, as determined by a final and binding citation and notice of assessment issued by the Department of Labor and Industries or through a civil judgment entered by a court of limited or general jurisdiction.

I declare under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct.

Power Northwest Inc.

Bidder



Signature of Authorized Official\*

Garrett Hartwell

Printed Name

Owner

Title

3/12/24

Date

Portland

City

OR

State

Check One:

Individual  Partnership  Joint Venture  Corporation

State of Incorporation, or if not a corporation, State where business entity was formed:

Oregon

If a co-partnership, give firm name under which business is transacted:

NA

\* If a corporation, proposal must be executed in the corporate name by the president or vice-president (or any other corporate officer accompanied by evidence of authority to sign). If a co-partnership, proposal must be executed by a partner.



STATE OF WASHINGTON  
DEPARTMENT OF LABOR AND INDUSTRIES

PO Box 44140 • Olympia, Washington 98504-4140

August 23, 2023

604-648-194

POWER NORTHWEST INC  
2711 NW SAINT HELENS RD  
PORTLAND OR 97210

**OR Policy #: 100025308**

Dear Employer,

The Washington State Department of Labor and Industries has approved your request to extend your existing workers' compensation to your Oregon employees while they are temporarily working in Washington, effective 06/01/2023 through 06/01/2024.

Please ensure this coverage meets all of Oregon's workers' compensation requirements. Your Oregon workers' compensation coverage applies only to your Oregon employees while they are temporarily working in the state of Washington. Any workers you hire in Washington or hire specifically to work in Washington must be covered by a separate policy through the Department of Labor and Industries.

Thank you for your request. Please contact me if you have any questions.

Sincerely,

*Eric Bruno*

Eric Bruno  
Employer Services, Program Coordinator  
PO Box 44140  
Olympia, WA 98504-4140  
360-902-4817  
teamoas@lni.wa.gov

Enclosures: Approved Request for Extraterritorial Coverage

CC: SAIF CORPORATION  
400 HIGH ST  
SALEM OR 97312-1000

**Oregon Approval - Extraterritorial Certificates**

## Extraterritorial Certificate of Insurance

**Company:**

SAIF Corporation  
400 High Street  
Salem Office  
Salem, OR 97312-1000

**SAIF Policy:** 100025308**NAICS Code:** 236118**Policy period effective date:** 06/01/2023**Insured:**

Power Northwest Incorporated  
2711 Nw Saint Helens Rd  
Portland, OR 97210

Legal Entity: Power Northwest Incorporated

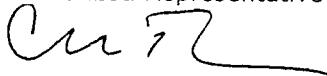
Construction Related  
 Not Construction Related

This employer is a SAIF policyholder fully insured under Oregon Workers' Compensation law. This insurance includes coverage of Oregon workers temporarily employed out of state incidental to their Oregon employment.

For questions regarding this certificate of insurance, please contact:

/s/ Kathy Ragan  
Insurance Rep Supervisor  
P: 503.673.5363  
F: 503.584.9049  
katrag@saif.com

Authorized Representative



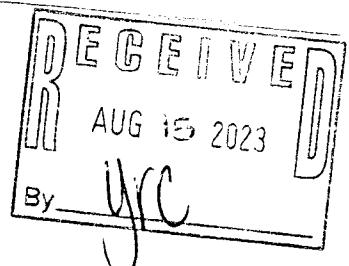
Chip Terhune, President and CEO

**Issue date:** August 02, 2023

**Certificate Holder:**

Washington State  
Dept Of Labor & Industries  
Insurance Services Division  
PO Box 44148  
Olympia, WA 98504-4148

Workers' Compensation Division  
Employer Compliance  
PO Box 14480  
Salem, OR 97300-0485



400 High Street SE  
Salem, OR 97312  
P: 800.285.8525  
F: 503.373.8020

## **Debarment, Suspension, Ineligibility or Voluntary Exclusion Certification Form**

ORGANIZATION NAME	Power Northwest Inc.		Doing business as (DBA)	
ADDRESS 2711 NW Saint Helens Rd Portland, OR 97210	Applicable Procurement or Solicitation #, if any: <b>SOLAR-22</b>	WA Uniform Business Identifier (UBI) <b>604-648-194</b>	Federal Employer Tax Identification #: <b>84-4119864</b>	
<b>This certification is submitted as part of a request to contract.</b>				

### **Instructions For Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion--Lower Tier Covered Transactions**

**READ CAREFULLY BEFORE SIGNING THE CERTIFICATION.** Federal regulations require contractors and bidders to sign and abide by the terms of this certification, without modification, in order to participate in certain transactions directly or indirectly involving federal funds.

1. By signing and submitting this proposal, the prospective lower tier participant is providing the certification set out below.
2. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.
3. The prospective lower tier participant shall provide immediate written notice to the department, institution or office to which this proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous when submitted or had become erroneous by reason of changed circumstances.
4. The terms covered transaction, debarred, suspended, ineligible, lower tier covered transaction, participant, person, primary covered transaction, principal, proposal, and voluntarily excluded, as used in this clause, have the meaning set out in the Definitions and Coverage sections of rules implementing Executive Order 12549. You may contact the person to which this proposal is submitted for assistance in obtaining a copy of those regulations.
5. The prospective lower tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is proposed for debarment under the applicable CFR, debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.
6. The prospective lower tier participant further agrees by submitting this proposal that it will include this clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transaction," without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.
7. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not proposed for debarment under applicable CFR, debarred, suspended, ineligible, or voluntarily excluded from covered transactions, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the List of Parties Excluded from Federal Procurement and Non-procurement Programs.
8. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business activity.
9. Except for transactions authorized under paragraph 5 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is proposed for debarment under applicable CFR, suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

### **Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion--Lower Tier Covered Transactions**

The prospective lower tier participant certifies, by submission of this proposal or contract, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency. Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this form.

Bidder or Contractor Signature:  Date: 3/12/24

Print Name and Title: Garrett Hartwell - Owner

Contract Number: Solar-22 Grove Field Solar System

2711 NW Saint Helens Rd.  
Portland, OR 97210

## Inclusion Plan – Admin Solar Project

### **1. Goals for small and diverse participation:**

Contract Amount - \$102,486 (excluding tax)  
Small business total 10% - \$10,248 (see below breakdown)

- OMWBE certified business 6.4% - \$6,558
- Veteran owned business 2% - \$2,050
- Other small businesses 1.6% - \$1,640

### **2. Contractor's diverse business subcontracting list**

- Tabby Cat Communications
- KC Aerial Survey
- Red Door Supply

### **3. Planned efforts by the firm to meet or exceed the aspirational inclusion goals to include but not limited to the following:**

- a. We plan to engage Tabby Cat to develop an owner's operating manual for the upcoming project. KC Aerial Survey will provide drone footage for aerial surveys. Additionally, Red Door Supply will be assisting us with equipment procurement for the project. We prioritize respectful treatment of all subcontractors, ensuring prompt payment and maintaining clear lines of communication throughout the project
- b. We are dedicated to nurturing the growth and expertise of our subcontractors, Tabby Cat, and KC Aerial Survey, through mentoring and networking. Our commitment to investing in their growth not only strengthens our project team but also contributes to the long-term success of our subcontractor community, laying the groundwork for excellence in our industry.
- c. We pay all subcontractors in full within 30 days of receipt of an invoice. All dispute resolution is done through mediation or binding arbitration. Both parties waive the right to a jury trial so that we can effectively and affordable resolve any disputes.

### **4. A description of planned efforts at outreach to the small and diverse business community.**

Our outreach efforts to the small and diverse business community include targeted communication through various channels such as industry events, networking sessions, and online platforms. We actively engage with minority-owned, women-owned, and veteran-owned businesses to promote collaboration and foster a diverse supplier base.

### **5. A description of the process for ensuring small businesses have enough time and information to provide a response to bids.**

Ensuring small businesses have ample time and information to respond to bids involves transparent communication of project details, including bid specifications, timelines, and submission requirements. We provide sufficient lead time for small businesses to review bid documents and offer clarification sessions to address any queries they may have.

### **6. Explain what efforts were made to ensure small businesses understand the bid and specifications?**

Efforts to ensure small businesses understand the bid and specifications include hosting pre-bid meetings and walkthroughs where potential bidders can familiarize themselves with project requirements and ask questions directly to project managers. Additionally, bid documents are crafted in clear and concise language, with technical terms explained to facilitate comprehension.



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**7. Describe how small businesses been considered in the development of the bid?**

Small businesses are integral to the development of the bid process, with their input sought during the planning stages to identify potential opportunities for subcontracting and collaboration. We actively seek feedback from small business stakeholders to tailor bid requirements and ensure they align with the capabilities and resources of diverse suppliers.

**8. Identify the company's diversity expert**

Our diversity expert, Garrett, serves as a dedicated point of contact for matters related to diversity and inclusion initiatives within our company. They provide guidance on best practices, facilitate training sessions, and spearhead efforts to enhance diversity across all aspects of our operations.

**9. A list of projects with diverse business participation in the last five years.**

Over the past five years, we have proudly collaborated with a diverse range of businesses on numerous projects, including various residential solar projects, the Harka Architecture headquarters, and Singing Hills Stables. These projects showcase our commitment to fostering inclusivity and creating opportunities for diverse businesses to contribute to our success.

**10. Acknowledgment of awareness and commitment to reach out to diverse businesses.**

We acknowledge and affirm our commitment to reaching out to diverse businesses and promoting an inclusive procurement process. Recognizing the value of diversity in driving innovation and excellence, we are dedicated to cultivating partnerships with businesses of all backgrounds to foster a thriving and equitable business ecosystem.

**11. Acknowledge that proposing bidder has education and training programs to communicate implementation of the Diverse Business Inclusion.**

As part of our commitment to Diverse Business Inclusion, we have established comprehensive education and training programs aimed at communicating the implementation of our diversity initiatives. Through workshops, seminars, and online resources, we ensure that all stakeholders, including employees, subcontractors, and partners, understand and actively participate in promoting diversity and inclusion within our organization and throughout our supply chain.

