

Contract Review Sheet

A&E Standard Prof Svcs Agmnt

PW-6087-24 - Am2

Title: ARPA - Public Safety Radio System Project - Site Improvements Design and Engineering

Contractor's Name: Don Cushing Associates, Inc.

Department: Public Works Department

Contact: Alicia Jones

Analyst: Kathleen George

Phone #: x 4320

Term - Date From: August 14, 2024

Expires: December 31, 2027

Original Contract Amount: \$ 768,675.00

Previous Amendments Amount: \$ 227,800.00

Current Amendment: \$ 142,928.00

New Contract Total: \$ 1,139,403.00

Amd% 48%

Outgoing Funds ☒ Federal Funds ☐ Reinstatement ☐ Retroactive ☒ Amendment greater than 25%

Source Selection Method: 30-0220 Formal Selection A&E

PW1508-24

Description of Services or Grant Award

Engineering firm to provide design, engineering, permit acquisition and construction support services for radio site improvements associated with County’s ARPA- Public Safety Radio System Project.

Amendment #1 changes Consultant entity name; corrects an oversight made within the scope of services of those radio sites that require construction to be performed within Task 5 - Construction Documents; changes a number of Contingent tasks to Authorized tasks, and adds design tasks for one additional prospective radio site as contingency work.

Amendment #2 adds the final suite of tasks needed to complete construction and permit documents for all sites and increases the contract value amount. The added cost is accounted for in the contingency budget of the project funding plan.

Desired BOC Session Date: 6/11/2025

Contract should be in DocuSign by: 5/21/2025

Agenda Planning Date 5/29/2025

Printed packets due in Finance: 5/27/2025

Management Update 5/27/2025

BOC upload / Board Session email: 5/28/2025

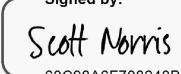
BOC Session Presenter(s) Brian Nicholas

Code: Y

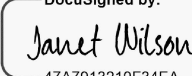
REQUIRED APPROVALS

DocuSigned by:

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5/21/2025
Date

Signed by:

60C68A6F708240B...
5/21/2025
Date

Legal Counsel

DocuSigned by:

47A7913219E34EA
5/22/2025
Date

Contract Specialist

DocuSigned by:

DC16854248DE4EC...
5/21/2025
Date

Chief Administrative Officer



MARION COUNTY BOARD OF COMMISSIONERS

Board Session Agenda Review FormMeeting date: 6/11/2025Department: Public WorksTitle: Amend #2 to Contract PW-6087-24 with Cushing Civil EngineersManagement Update/Work Session Date: 5/27/2025 Audio/Visual aids ☐Time Required: 5 min Contact: Brian Nicholas Phone: x7943**Requested Action:**

Approve Amendment No. 2 to Contract PW-6087-24 with Cushing Civil Engineers for the design, engineering, permitting and construction oversight of civil site improvements for the Marion County Radio Project, increasing the contract not-to-exceed value by \$142,928, from \$996,475 to \$1,139,403.

**Issue, Description
& Background:**

Marion County is in the process of constructing a county wide radio system for use by first responder agencies throughout the county. The project requires the construction of three (3) new radio broadcast sites and the construction of site improvements at nine (9) existing radio broadcast sites. Site selection is complete. This amendment adds the final suite of tasks needed to complete construction and permit documents for the twelve (12) sites that will be used by the new radio system.

Financial Impacts:

This is a budgeted expense in the current fiscal year under CIP 22-308.

**Impacts to Department
& External Agencies:**

The Marion County Sheriff, Juvenile Department, Public Works Department, and first responder agencies throughout the county will benefit from the development of a modern, fully interoperable radio system.

List of attachments:

Amendment #2, Contract PW-6087-24

Presenter:

Brian Nicholas

**Department Head
Signature:**

Brian Nicholas

Digitally signed by Brian Nicholas
Date: 2025.05.15 18:10:29 -07'00'



Marion County
OREGON

AMENDMENT 2 to PW-6087-24
the STANDARD PROFESSIONAL SERVICES CONTRACT
between
MARION COUNTY and DON CUSHING ASSOCIATES, INC.

This Amendment No. 2 to the Standard Professional Services Contract (as amended from time to time, the "Contract"), dated August 14, 2024, between Marion County, a political subdivision of the State of Oregon, hereafter called Owner, and Don Cushing Associates, Inc. hereafter called Consultant.

The Contract is hereby amended as follows (new language is indicated by underlining and deleted language is indicated by ~~striketrough~~):

1. THIS PROFESSIONAL SERVICES CONTRACT (the "**Contract**") is between Marion County, a political subdivision of the State of Oregon, by and through its Public Works Department, 9the "**Owner**") and:

Company: **Don Cushing Associates, Inc.**
Address: **12725 SW Millikan Way, Suite 300**
City, State Zip: **Portland, OR 97227**

Contract #: **PW-6087-24**
Phone: **503-386-5331**
Email: **kenny@CushingCivilEngineers.com**

(the "**Consultant**") (collectively Owner and Consultant are referred to as the "**Parties**" and individually as "**Party**"). This Contract is for all Services related to completion of the project more particularly described as follows (the "**Project**"):

ARPA – Public Safety Radio System Project Site Improvements Design and Engineering, which involves the construction of site improvements needed to support the function and operation of Owner's prospective countywide public safety radio system at various radio sites within and around Marion County, Oregon.

This Contract shall become effective on the date the Contract is fully executed by the Parties and all required Marion County approvals have been obtained (the "**Effective Date**"). The Contract shall expire, unless otherwise terminated or extended, on **December 31, 2027**. Generally, the Services to be performed by Consultant on the Project consist of the following (the "**Services**"):

Design, engineering, permit acquisition and construction support for radio site improvements, including civil site design; structural, mechanical, electrical and geotechnical engineering; land surveying; natural, cultural, historical and archaeological resource permitting and clearance documentation; land use planning and permit acquisition; building permit acquisition; acquisition of permits specified by FAA and FCC, excluding radio frequency permits; construction plans, specifications, estimates and other bidding documents; bidding and construction support; and related Services.

The Services are more specifically described in the **EXHIBIT A, Statement of Work**. Owner agrees to pay Consultant a sum not to exceed **\$1,139,403.00** ~~\$996,475.00~~ for performance of the Services, which shall include all allowable expenses. Progress payments shall be made in accordance with **EXHIBIT B, Consultant Compensation**.

2. EXHIBIT B – CONSULTANT COMPENSATION

B.1.01 Owner shall compensate Consultant for the performance of Services set forth in **Exhibit A**, as follows:

The maximum, not to exceed total amount payable under this Contract is **\$1,139,403.00** ~~\$996,475.00~~ for the combination of Authorized and Contingency Services.

Consultant shall perform the Authorized Services for a maximum, not-to-exceed price of **\$1,003,228.00** ~~**\$793,450.00**~~.

Upon the issuance of written authorization by Owner, Consultant shall perform specified Contingency tasks. Consultant shall perform no work nor incur any compensable costs associated with any Contingency task prior to the issuance of written authorization by Owner. The total Contingency allowance shall not exceed **\$136,175.00** ~~**\$203,025.00**~~, unless otherwise amended.

No separate payment shall be provided for expenses such as travel, mileage, per diem, printer or photocopy services.

Authorized Tasks, Contingency Tasks, Reserved Tasks and maximum task fees are stated in **EXHIBIT B.1(1) (2), TASK AUTHORIZATIONS.**


Except as expressly amended above, all other terms and conditions of the original contract are still in full force and effect. Contractor certifies that the representations, warranties and certifications contained in the original Contract are true and correct as of the effective date of this Amendment and with the same effect as though made at the time of this Amendment.

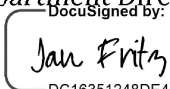
MARION COUNTY SIGNATURES
BOARD OF COMMISSIONERS:


Chair Date

Commissioner Date

Commissioner Date

Authorized Signature:  5/21/2025
DocuSigned by: 9793BA7ACD8D443...
Department Director or designee Date

Authorized Signature:  5/21/2025
DocuSigned by: DC16351248DE4EC...
Chief Administrative Officer Date

Reviewed by Signature:  5/21/2025
Signed by: 89C98A8F708240B...
Marion County Legal Counsel Date

Reviewed by Signature:  5/21/2025
DocuSigned by: A3538E7AEC704F4...
Marion County Contracts & Procurement Date

DON CUSHING ASSOCIATES, INC. SIGNATURE

Authorized Signature: _____
Date

Title: _____

MARION COUNTY
STANDARD PROFESSIONAL SERVICES CONTRACT
EXHIBIT B.1 (2) - TASK AUTHORIZATIONS

Task #	Task	Cascade #4 Crooked Finger (Final Site)	Crooked Finger (Unused Site)	Crosby	Eagle Crest	Eastview Lane	Halls Ridge	House Mountain	Mad Creek	MC Courthouse	MCPW	McCully Mountain	METCOM 911	Elkhorn Fire	APW (3 Creeks) North Fork	Parrett Mountain	SCC	Marion County Jail	Silver Falls	Lower Prospect	Upper Prospect	Wipper	Whitewater
1	Site Visit, Data Collection and Point Cloud Capture	Reserved	Authorized \$3,100	Authorized \$3,100	Authorized \$3,100	Authorized \$3,100	Authorized \$3,100	Authorized \$3,100	Authorized \$3,100	Authorized \$3,100	Authorized \$3,100	Authorized \$3,100	Authorized \$3,100	Authorized \$3,100	Authorized \$3,100	Authorized \$3,100	Authorized \$3,100	Authorized \$3,100	Authorized \$3,100	Authorized \$3,100	Contingency \$3,100	Authorized \$3,100	Reserved
2	Site Sketch	Authorized \$1,400	Authorized \$1,400	Authorized \$1,400	Authorized \$1,400	Authorized \$1,400	Authorized \$1,400	Authorized \$1,400	Authorized \$1,400	Authorized \$1,400	Authorized \$1,400	Authorized \$1,400	Authorized \$1,400	Authorized \$1,400	Authorized \$1,400	Authorized \$1,400	Authorized \$1,400	Authorized \$1,400	Authorized \$1,400	Authorized \$1,400	Contingency \$1,400	Authorized \$1,400	Reserved
3	Zoning Analysis Report	Reserved	Authorized \$1,500	Authorized \$1,500	Authorized \$1,500	Authorized \$1,500	Authorized \$1,500	Authorized \$1,500	Authorized \$1,500	Authorized \$1,500	Authorized \$1,500	Authorized \$1,500	Authorized \$1,500		Authorized \$1,500	Authorized \$1,500	Authorized \$1,500	Authorized \$1,500	Authorized \$1,500	Authorized \$1,500	Contingency \$1,500	Authorized \$1,500	Reserved
4	Zoning / Land Use Documents	Authorized \$4,000	Authorized \$4,000	Authorized \$4,000	Authorized \$4,000	Authorized \$4,000	Authorized \$4,000	Authorized \$4,000	Authorized \$4,000	Authorized \$4,000	Authorized \$4,000	Authorized \$4,000	Authorized \$4,000		Authorized \$4,000	Authorized \$4,000	Authorized \$4,000	Authorized \$4,000	Authorized \$4,000	Authorized \$4,000	Contingency \$4,000	Authorized \$4,000	Reserved
5	Construction Documents	Authorized \$2,375	Authorized \$4,750 \$3,000	Authorized \$4,750	Authorized \$2,500	Authorized \$4,750	Authorized \$2,500	Authorized \$4,750	Authorized \$4,750	Authorized \$4,750	Authorized \$4,750	Authorized \$4,750	Authorized \$4,750		Authorized \$4,750	Authorized \$2,500	Authorized \$4,750	Authorized \$4,750	Authorized \$4,750	Authorized \$4,750	Contingency \$2,500	Authorized \$4,750	Reserved
6	Grading and Erosion Control Plans	Authorized \$2,750	Authorized \$2,750			Authorized \$2,750	Reserved	Authorized \$2,750	Authorized \$2,750			Authorized \$2,750			Authorized \$2,750				Authorized \$2,750	Authorized \$2,750		Authorized \$2,750	Reserved
7	Stormwater Report	Reserved	Authorized \$2,000 \$0					Authorized \$2,000							Authorized \$2,000								Reserved
8	Utility Coordination	Authorized \$1,600	Authorized \$1,600 \$0						Authorized \$1,600			Authorized \$1,600			Contingency \$1,600				Authorized \$1,600				Reserved
9	Grounding Plan	Authorized \$2,300	Authorized \$2,300 \$1,150	Authorized \$2,300		Authorized \$2,300		Authorized \$2,300	Authorized \$2,300	Authorized \$2,300	Authorized \$2,300	Authorized \$2,300	Authorized \$2,300		Authorized \$2,300		Authorized \$2,300	Authorized \$2,300	Authorized \$2,300	Authorized \$2,300		Authorized \$2,300	Reserved
10	Visual Impact Study	Reserved																					Reserved
11	Meetings	Authorized \$1,500	Authorized \$1,500 \$975	Authorized \$1,500	Authorized \$1,500	Authorized \$1,500	Authorized \$1,500	Authorized \$1,500	Authorized \$1,500	Authorized \$1,500	Authorized \$1,500	Authorized \$1,500	Authorized \$1,500		Authorized \$1,500	Authorized \$1,500	Authorized \$1,500	Authorized \$1,500	Authorized \$1,500	Authorized \$1,500	Contingency \$1,500	Authorized \$1,500	Reserved
12	Construction Administration	Authorized \$2,500	Authorized \$2,500 \$2,120	Authorized \$2,500	Authorized \$1,500	Authorized \$2,500	Authorized \$1,500	Authorized \$2,500	Authorized \$2,500	Authorized \$1,500	Authorized \$1,500	Authorized \$2,500	Authorized \$1,500		Authorized \$2,500	Authorized \$1,500	Authorized \$1,500	Authorized \$1,500	Authorized \$2,500	Authorized \$2,500	Contingency \$1,500	Authorized \$2,500	Reserved
	12.1 Procurement Coordination	Authorized \$6,500				Authorized \$1,500		Authorized \$7,500	Authorized \$4,000			Authorized \$6,500			Authorized \$7,500				Authorized \$4,000	Authorized \$4,000		Authorized \$2,500	
13	Engineering Project Management and Coordination	Authorized \$3,500	Authorized \$5,500 \$4,500	Authorized \$5,500	Authorized \$3,500	Authorized \$5,500	Authorized \$3,500	Authorized \$5,500	Authorized \$5,500	Authorized \$5,500	Authorized \$5,500	Authorized \$5,500	Authorized \$5,500		Authorized \$5,500	Authorized \$3,500	Authorized \$3,500	Authorized \$5,500	Authorized \$5,500	Authorized \$5,500	Contingency \$3,500	Authorized \$5,500	Reserved
14	Geotechnical Investigation and Report	Authorized \$10,000	Authorized \$8,500 \$11,250					Authorized \$8,500 \$11,250				Authorized \$10,000			Authorized \$8,500 \$11,250					Authorized \$10,000		Authorized \$8,500 \$11,250	Reserved
15	Geotechnical Seismic Analysis	Authorized \$4,500	Authorized \$3,500					Authorized \$3,500				Authorized \$4,500			Authorized \$3,500					Authorized \$4,500		Authorized \$3,500	Reserved
16	Soil Resistivity Testing	Authorized \$950	Authorized \$950	Reserved	Reserved	Reserved	Reserved	Authorized \$950	Reserved	Reserved	Reserved	Authorized \$950	Reserved		Authorized \$950	Reserved	Reserved	Reserved	Reserved	Authorized \$950	Reserved	Authorized \$950	Reserved
17	NEPA FCC Checklist	Authorized \$7,000	Authorized \$12,500					Authorized \$12,500				Authorized \$12,500			Authorized \$12,500					Authorized \$12,500		Authorized \$12,500	Reserved
18	Archaeological Site Survey and Report	Reserved	Authorized \$0					Authorized \$0							Authorized \$0					Authorized \$0		Authorized \$0	Reserved

19	Tribal Consultation	Reserved	Authorized \$0					Authorized \$0							Authorized \$0				Authorized \$0		Authorized \$0	Reserved	
20	Foundation Structural Design for Equipment Slabs, Generators and Propane Tanks	Authorized \$5,500	Authorized \$5,500 \$1,180			Authorized \$2,500		Authorized \$5,500	Authorized \$5,500		Authorized \$2,500	Contingency \$5,500			Authorized \$5,500			Authorized \$5,500	Authorized \$2,750	Authorized \$2,750	Reserved		
21	Prefabricated Radio Shelter	Reserved																			Reserved		
22	Misc. Equipment Structural Design	Authorized \$1,000	Authorized \$2,000 \$1,250	Contingency \$2,000	Contingency \$1,000	Contingency \$2,000	Contingency \$1,000	Contingency \$2,000	Contingency \$2,000		Contingency \$2,000	Contingency \$2,000	Contingency \$1,000		Contingency \$2,000	Contingency \$1,000	Contingency \$1,000	Contingency \$1,000	Contingency \$2,000	Contingency \$2,000	Contingency \$1,000	Contingency \$2,000	Reserved
23	Drone Services (Tower Mapping/Inventory)	Reserved																				Reserved	
24	Structural Analysis of Existing Tower	Reserved	Reserved					Reserved							Reserved							Reserved	
	24.1 Monopole					Authorized \$3,250	Authorized \$3,250			Authorized \$3,250	Authorized \$3,250		Authorized \$3,250		Authorized \$3,250			Authorized \$3,250	Authorized \$3,250			Reserved	
	24.2 Lattice up to 175'			Authorized \$3,450													Authorized \$3,450					Reserved	
	24.3 Lattice between 175' and 300'								Authorized \$3,750			Authorized \$3,750								Contingency \$3,750		Reserved	
	24.4 Lattice over 300'																					Reserved	
	24.5 Pipe Mount			Authorized \$1,675		Authorized \$1,675	Authorized \$1,675		Authorized \$1,675	Authorized \$1,675	Authorized \$1,675	Authorized \$1,675	Authorized \$1,675			Authorized \$1,675	Authorized \$1,675	Authorized \$1,675	Authorized \$1,675		Contingency \$1,675		Reserved
	24.6 Wall Mounts/Tripod/Antenna Frame																					Reserved	
	24.7 Rooftop Antenna Frame																					Reserved	
25	Tower Foundation Design	Reserved	Reserved					Reserved							Reserved							Reserved	
26	Land use Permitting (T&M)	Reserved	Authorized \$8,250 \$6,513	Contingency \$1,000	Contingency \$1,000	Contingency \$1,000	Contingency \$2,500	Authorized \$8,250	Contingency \$1,000	Contingency \$1,000	Contingency \$1,000	Authorized \$4,500 \$8,250	Contingency \$1,000		Contingency \$8,250	Contingency \$2,500	Contingency \$1,000	Contingency \$1,000	Authorized \$4,500	Authorized \$8,250	Contingency \$1,000	Authorized \$8,250	Reserved
27	Building Permitting	Authorized \$2,500	Authorized \$2,500 \$640	Authorized \$1,000	Authorized \$1,000	Authorized \$1,000	Authorized \$2,500	Authorized \$2,500	Authorized \$1,000	Authorized \$1,000	Authorized \$1,000	Authorized \$2,500	Authorized \$1,000		Contingency \$2,500	Authorized \$2,500	Authorized \$1,000	Authorized \$1,000	Authorized \$2,500	Authorized \$2,500	Contingency \$1,000	Authorized \$2,500	Reserved
28	Topographic Survey	Authorized \$3,500	Authorized \$8,500					Authorized \$8,500	Authorized \$8,500		Reserved	Contingency \$8,500			Contingency \$8,500				Authorized \$8,500	Authorized \$8,500		Authorized \$8,500	Reserved
29	Additional Survey Services	Authorized \$1,250	Authorized \$2,500 \$1,250					Contingency \$2,500	Contingency \$2,500			Contingency \$2,500			Contingency \$2,500				Contingency \$2,500	Contingency \$2,500		Contingency \$2,500	Reserved
30	Construction Survey	Authorized \$3,000	Contingency \$3,000					Contingency \$3,000	Contingency \$3,000			Authorized \$3,000			Contingency \$3,000				Contingency \$3,000	Contingency \$3,000		Contingency \$3,000	Reserved
31	NIER Letter	Reserved	Reserved	Reserved	Reserved	Reserved	Reserved	Reserved	Reserved	Reserved			Reserved		Reserved	Reserved	Reserved	Reserved	Reserved	Reserved	Reserved	Reserved	
32	Solar Power Design	Reserved						Authorized \$19,000							Authorized \$19,000								Reserved
33	Construction Management Services	Reserved	Reserved	Reserved	Reserved	Reserved	Reserved	Reserved	Reserved	Reserved	Reserved	Reserved	Reserved		Reserved	Reserved	Reserved	Reserved	Reserved	Reserved	Reserved	Reserved	
	Total Authorized	\$4,500 \$61,125	\$83,400 \$72,028	\$32,675	\$20,000	\$37,735 \$39,225	\$26,425	\$100,500 \$110,750	\$51,335 \$55,325	\$31,475	\$33,975	\$46,335 \$79,100	\$31,475	\$4,500	\$4,500 \$91,500	\$26,425	\$29,675	\$31,475	\$56,835 \$60,825	\$63,800 \$83,250	\$0	\$76,750 \$82,000	\$0
	Total Contingency	\$0	\$7,500 \$0	\$3,000	\$2,000	\$3,000	\$3,500	\$7,500	\$8,500	\$1,000	\$3,000	\$18,500	\$2,000	\$0	\$86,400 \$26,750	\$3,500	\$2,000	\$2,000	\$7,500	\$7,500	\$27,425	\$7,500	\$0

Contract Review Sheet

Contract for Services

PW-6087-24 - Am1Title: ARPA - Public Safety Radio System Project - Site Improvements Design and EngineeringContractor's Name: Don Cushing Associates, Inc.Department: Public Works DepartmentContact: Alicia JonesAnalyst: Kathleen GeorgePhone #: (503) 373-4320Term - Date From: ExecutionExpires: December 31, 2026Original Contract Amount: \$ 768,675.00Previous Amendments Amount: \$ -Current Amendment: \$ 227,800.00New Contract Total: \$ 996,475.00Amd% 30%Outgoing Funds ☒ Federal Funds ☐ Reinstatement ☐ Retroactive ☒ Amendment greater than 25%Source Selection Method: 30-0220 Formal Selection A&EPW1508-24

Description of Services or Grant Award

Engineering firm to provide design, engineering, permit acquisition and construction support services for radio site improvements associated with County's ARPA- Public Safety Radio System Project.

Amendment #1 changes Consultant entity name; corrects an oversight made within the scope of services of those radio sites that require construction to be performed within Task 5 - Construction Documents; changes a number of Contingent tasks to Authorized tasks, and adds design tasks for one additional prospective radio site as contingency work.

Desired BOC Session Date: 1/22/2025Contract should be in DocuSign by: 1/8/2025Agenda Planning Date: 1/16/2025Printed packets due in Finance: 1/14/2025Management Update: 12/3/2024BOC upload / Board Session email: 1/15/2025BOC Session Presenter(s) Brian NicholasCode: Y

REQUIRED APPROVALS

DocuSigned by:

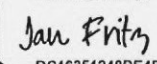
 E4502AF8CAA542G...
1/8/2025
 Finance - Contracts Date

Signed by:

 DA7EBDCC1E7BA7D...
1/9/2025
 Contract Specialist Date

Signed by:

 89C98A6F709240B...
1/8/2025
 Legal Counsel Date

DocuSigned by:

 DG18351248DE4EC...
1/9/2025
 Chief Administrative Officer Date



MARION COUNTY BOARD OF COMMISSIONERS

Board Session Agenda Review Form

Meeting date: January 22, 2025

Department: Public Works

Title:

Amendment #1 to Contract PW-6087-24 with Don Cushing Associates

Management Update/Work Session Date: December 3, 2024 Audio/Visual aids ☐

Time Required: 5 min Contact: Brian Nicholas Phone: x7943

Requested Action:

Approve Amendment #1 to Standard Professional Services Contract PW-6087-24 between Marion County and Don Cushing Associates, Inc., dba Cushing Civil Engineering, increasing the contract value by \$227,800.00, from \$768,675.00 to \$996,475.00, \$203,025.00 of which is for various contingency tasks.

Issue, Description & Background:

Marion County is in the process of constructing a new county wide radio system for use by first responder agencies. Under Contract PW-6087-24, Cushing is providing land surveying, site design, permitting and related services for civil site improvements to Marion County's new and existing radio sites. The civil site improvements are needed to support the new radio system.

Amendment #1 adds Task 5, Construction Plans, to the scope of services of those radio sites that require construction to be performed, correcting an oversight made on the original contract, changes a number of Contingent tasks to Authorized tasks, and adds design tasks for one additional prospective radio site as contingency work.

Financial Impacts:

This is a budgeted expense in the current fiscal year and the added cost is accounted for in the project CIP.

Impacts to Department & External Agencies:

First responder agencies, including the Marion County Sheriff's Office, and other agencies, such as Marion County Public Works, will benefit from the new radio system.

List of attachments:

Contract PW-6087-24, Amendment #1

Presenter:

Brian Nicholas

Department Head Signature:

Brian Nicholas



Marion County
OREGON

AMENDMENT 1 to PW-6087-24
the STANDARD PROFESSIONAL SERVICES CONTRACT
between
MARION COUNTY and DON CUSHING ASSOCIATES, INC.

This Amendment No. 1 to the Standard Professional Services Contract (as amended from time to time, the "Contract"), dated August 14, 2024, between Marion County, a political subdivision of the State of Oregon, hereafter called Owner, and Cushing Civil Engineers, Inc. hereafter called Consultant.

The Contract is hereby amended as follows (new language is indicated by underlining and deleted language is indicated by ~~strikethrough~~):

1. THIS PROFESSIONAL SERVICES CONTRACT (the "Contract") is between Marion County, a political subdivision of the State of Oregon, by and through its Public Works Department, ~~9~~the "Owner") and:

Company: Don Cushing Associates Civil
Engineers, Inc.
Address: 12725 SW Millikan Way, Suite 300
City, State Zip: Portland, OR 97227

Contract #: PW-6087-24
Phone: 503-386-5331
Email: kenny@CushingCivilEngineers.com

(the "Consultant") (collectively Owner and Consultant are referred to as the "Parties" and individually as "Party"). This Contract is for all Services related to completion of the project more particularly described as follows (the "Project"):

ARPA – Public Safety Radio System Project Site Improvements Design and Engineering, which involves the construction of site improvements needed to support the function and operation of Owner's prospective countywide public safety radio system at various radio sites within and around Marion County, Oregon.

This Contract shall become effective on the date the Contract is fully executed by the Parties and all required Marion County approvals have been obtained (the "Effective Date"). The Contract shall expire, unless otherwise terminated or extended, on **December 31, 2027**. Generally, the Services to be performed by Consultant on the Project consist of the following (the "Services"):

Design, engineering, permit acquisition and construction support for radio site improvements, including civil site design; structural, mechanical, electrical and geotechnical engineering; land surveying; natural, cultural, historical and archaeological resource permitting and clearance documentation; land use planning and permit acquisition; building permit acquisition; acquisition of permits specified by FAA and FCC, excluding radio frequency permits; construction plans, specifications, estimates and other bidding documents; bidding and construction support; and related Services.

The Services are more specifically described in the **EXHIBIT A, Statement of Work**. Owner agrees to pay Consultant a sum not to exceed \$996,475.00 ~~\$768,675.00~~ for performance of the Services, which shall include all allowable expenses. Progress payments shall be made in accordance with **EXHIBIT B, Consultant Compensation**.

2. EXHIBIT B – CONSULTANT COMPENSATION

B.1.01 Owner shall compensate Consultant for the performance of Services set forth in **Exhibit A**, as follows:

The maximum, not to exceed total amount payable under this Contract is \$996,475.00 ~~\$768,675.00~~ for the combination of Authorized and Contingency Services.

Consultant shall perform the Authorized Services for a maximum, not-to-exceed price of **\$793,450.00** ~~\$638,250.00~~.

Upon the issuance of written authorization by Owner, Consultant shall perform specified Contingency tasks. Consultant shall perform no work nor incur any compensable costs associated with any Contingency task prior to the issuance of written authorization by Owner. The total Contingency allowance shall not exceed **\$203,025.00** ~~\$130,425.00~~, unless otherwise amended.

No separate payment shall be provided for expenses such as travel, mileage, per diem, printer or photocopy services.

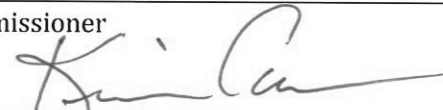
Authorized Tasks, Contingency Tasks, Reserved Tasks and maximum task fees are stated in **EXHIBIT B.1(1), TASK AUTHORIZATIONS.**

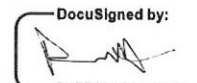
Except as expressly amended above, all other terms and conditions of the original contract are still in full force and effect. Contractor certifies that the representations, warranties and certifications contained in the original Contract are true and correct as of the effective date of this Amendment and with the same effect as though made at the time of this Amendment.

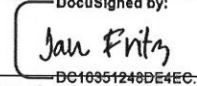
**MARION COUNTY SIGNATURES
BOARD OF COMMISSIONERS:**

 1/22/2025
Chair Date

Not Present At Meeting

Commissioner  1.22.2025
Commissioner Date

Authorized Signature:  1/8/2025
Department Director or designee Date

Authorized Signature:  1/9/2025
Chief Administrative Officer Date

Reviewed by Signature:  1/8/2025
Marion County Legal Counsel Date

Reviewed by Signature:  1/8/2025
Marion County Contracts & Procurement Date

DON CUSHING ASSOCIATES, INC. SIGNATURE

Authorized Signature: _____ Date

Title: _____

**MARION COUNTY
STANDARD PROFESSIONAL SERVICES CONTRACT
EXHIBIT B.1(1) - TASK AUTHORIZATIONS**

Task #	Task	Cascades #1	Crooked Finger	Crosby	Engle Crest	Eastview Lane	Halls Ridge	House Mountain	Mad Creek	MC Courthouse	MCPW	McCully Mountain	METCOM 911	North Fork #4	North Fork #6	Purcell Mountain	SCC	Sandstone-Hospital-Marion County Jail	Silver Falls	Lower Prospect	Upper Prospect	Wipperf	Whitewater
1	Site Visit, Data Collection and Point Cloud Capture	Authorized \$3,100	Authorized \$3,100	Authorized \$3,100	Authorized \$3,100	Authorized \$3,100	Authorized \$3,100	Authorized \$3,100	Authorized \$3,100	Authorized \$3,100	Authorized \$3,100	Authorized \$3,100	Authorized \$3,100	Authorized \$3,100	Authorized \$3,100	Authorized \$3,100	Authorized \$3,100	Authorized \$3,100	Authorized \$3,100	Authorized \$3,100	Contingency \$3,100	Authorized \$3,100	Reserved
2	Site Sketch	Authorized \$1,400	Authorized \$1,400	Authorized \$1,400	Authorized \$1,400	Authorized \$1,400	Authorized \$1,400	Authorized \$1,400	Authorized \$1,400	Authorized \$1,400	Authorized \$1,400	Authorized \$1,400	Authorized \$1,400	Authorized \$1,400	Authorized \$1,400	Authorized \$1,400	Authorized \$1,400	Authorized \$1,400	Authorized \$1,400	Authorized \$1,400	Contingency \$1,400	Authorized \$1,400	Reserved
3	Zoning Analysis Report	Reserved	Authorized \$1,500	Authorized \$1,500	Authorized \$1,500	Authorized \$1,500	Authorized \$1,500	Authorized \$1,500	Authorized \$1,500	Authorized \$1,500	Authorized \$1,500	Authorized \$1,500	Authorized \$1,500	Authorized \$1,500	Authorized \$1,500	Authorized \$1,500	Authorized \$1,500	Authorized \$1,500	Authorized \$1,500	Authorized \$1,500	Contingency \$1,500	Authorized \$1,500	Reserved
4	Zoning / Land Use Documents	Reserved	Authorized \$4,000	Authorized \$4,000	Authorized \$4,000	Authorized \$4,000	Authorized \$4,000	Authorized \$4,000	Authorized \$4,000	Authorized \$4,000	Authorized \$4,000	Authorized \$4,000	Authorized \$4,000	Authorized \$4,000	Authorized \$4,000	Authorized \$4,000	Authorized \$4,000	Authorized \$4,000	Authorized \$4,000	Authorized \$4,000	Contingency \$4,000	Authorized \$4,000	Reserved
5	Construction Documents	Reserved	Authorized \$4,750	Authorized \$4,750	Authorized \$4,750	Authorized \$4,750	Authorized \$4,750	Authorized \$4,750	Authorized \$4,750	Authorized \$4,750	Authorized \$4,750	Authorized \$4,750	Authorized \$4,750	Authorized \$4,750	Authorized \$4,750	Authorized \$4,750	Authorized \$4,750	Authorized \$4,750	Authorized \$4,750	Authorized \$4,750	Contingency \$4,750	Authorized \$4,750	Reserved
6	Grading and Erosion Control Plans	Reserved	Authorized \$2,750			Authorized \$2,750	Reserved	Authorized \$2,750	Authorized \$2,750	Reserved		Authorized \$4,750		Reserved	Contingency \$2,750				Authorized \$2,750	Authorized \$2,750		Authorized \$2,750	Reserved
7	Stormwater Report	Reserved	Authorized \$2,000					Authorized \$2,000		Reserved		Authorized \$2,750		Reserved	Contingency \$2,000								Reserved
8	Utility Coordination	Reserved	Authorized \$1,600					Authorized \$1,600	Reserved		Authorized \$1,600		Reserved	Contingency \$1,600					Authorized \$1,600	Authorized \$1,600			Reserved
9	Grounding Plan	Reserved	Authorized \$2,300	Authorized \$2,300		Authorized \$2,300		Authorized \$2,300	Authorized \$2,300	Authorized \$2,300	Authorized \$2,300	Authorized \$2,300	Authorized \$2,300	Authorized \$2,300	Authorized \$2,300	Authorized \$2,300	Authorized \$2,300	Authorized \$2,300	Authorized \$2,300	Authorized \$2,300	Authorized \$2,300	Authorized \$2,300	Reserved
10	Visual Impact Study	Reserved							Reserved	Authorized \$2,300			Reserved										Reserved
11	Meetings	Reserved	Authorized \$1,500	Authorized \$1,500	Authorized \$1,500	Authorized \$1,500	Authorized \$1,500	Authorized \$1,500	Authorized \$1,500	Authorized \$1,500	Authorized \$1,500	Authorized \$1,500	Authorized \$1,500	Authorized \$1,500	Authorized \$1,500	Authorized \$1,500	Authorized \$1,500	Authorized \$1,500	Authorized \$1,500	Authorized \$1,500	Contingency \$1,500	Authorized \$1,500	Reserved
12	Construction Administration	Reserved	Authorized \$2,500	Authorized \$2,500	Authorized \$2,500	Authorized \$2,500	Authorized \$2,500	Authorized \$2,500	Authorized \$2,500	Authorized \$2,500	Authorized \$2,500	Authorized \$2,500	Authorized \$2,500	Authorized \$2,500	Authorized \$2,500	Authorized \$2,500	Authorized \$2,500	Authorized \$2,500	Authorized \$2,500	Authorized \$2,500	Contingency \$2,500	Authorized \$2,500	Reserved
13	Engineering Project Management and Coordination	Reserved	Authorized \$5,500	Authorized \$5,500	Authorized \$5,500	Authorized \$5,500	Authorized \$5,500	Authorized \$5,500	Authorized \$5,500	Authorized \$5,500	Authorized \$5,500	Authorized \$5,500	Authorized \$5,500	Authorized \$5,500	Authorized \$5,500	Authorized \$5,500	Authorized \$5,500	Authorized \$5,500	Authorized \$5,500	Authorized \$5,500	Contingency \$5,500	Authorized \$5,500	Reserved
14	Geotechnical Investigation and Report	Reserved	Authorized \$8,500					Authorized \$8,500		Reserved				Reserved	Contingency \$8,500							Authorized \$8,500	Reserved
15	Geotechnical Seismic Analysis	Reserved	Authorized \$3,500					Authorized \$3,500		Reserved				Reserved	Contingency \$3,500							Authorized \$3,500	Reserved
16	Soil Resiliency Testing	Reserved	Authorized \$950	Reserved	Reserved	Reserved	Reserved	Authorized \$950	Reserved	Reserved	Reserved	Reserved	Reserved	Reserved	Contingency \$950	Reserved	Reserved	Reserved	Reserved		Reserved	Authorized \$950	Reserved
17	NEPA FCC Checklist	Reserved	Authorized \$12,500					Authorized \$12,500		Reserved		Reserved		Reserved	Contingency \$12,500					Authorized \$12,500		Authorized \$12,500	Reserved
18	Archaeological Site Survey and Report	Reserved	Authorized \$0					Authorized \$0		Reserved				Reserved	Contingency \$0					Authorized \$0		Authorized \$0	Reserved
19	Tribal Consultation	Reserved	Authorized \$0					Authorized \$0		Reserved				Reserved	Contingency \$0					Authorized \$0		Authorized \$0	Reserved
20	Foundation Structural Design for Equipment Slabs, Generators and Propane Tanks	Reserved	Authorized \$5,500			Authorized \$2,500		Authorized \$5,500	Authorized \$5,500	Reserved	Authorized \$2,500	Contingency \$5,500		Reserved	Contingency \$5,500				Authorized \$5,500	Authorized \$2,750		Authorized \$2,750	Reserved
21	Prefabricated Radio Shelter	Reserved								Reserved		Contingency \$5,500		Reserved									Reserved
22	Misc. Equipment Structural Design	Reserved	Contingency \$2,000	Contingency \$7,000	Contingency \$1,000	Contingency \$2,000	Contingency \$1,000	Contingency \$2,000	Contingency \$2,000	Contingency \$4,000	Contingency \$2,000	Contingency \$2,000	Contingency \$1,000	Reserved	Contingency \$2,000	Contingency \$1,000	Contingency \$1,000	Contingency \$1,000	Contingency \$2,000	Contingency \$2,000	Contingency \$1,000	Contingency \$2,000	Reserved



Marion County
OREGON
FINANCE DEPARTMENT

Contract Review Sheet

PW-6087-24

Contract for Services #: PW-6087-24 Amendment #: _____

Contact: Alicia Jones

Department: Public Works Department

Phone #: 503-373-4320

Analyst: Kathleen George

Title: ARPA - Public Safety Radio System Project - Site Improvements Design and Engineering

Contractor's Name: Cushing Civil Engineers

Term - Date From: Execution Expires: December 31, 2027

Original Contract Amount: \$ 768,675.00 Previous Amendments Amount: \$ -

Current Amendment: \$ - New Contract Total: \$ 768,675.00 Amd% 0%

☐ Incoming Funds ☒ Federal Funds ☐ Reinstatement ☐ Retroactive ☐ Amendment greater than 25%

Source Selection Method: 30-0220 Formal Selection A&E PW1508-24

Description of Services or Grant Award

Engineering firm to provide design, engineering, permit acquisition and construction support services for radio site improvements associated with County's ARPA- Public Safety Radio System Project.

Desired BOC Session Date: 8/14/2024

Files submitted in CMS for Approval: 7/17/2024

Agenda Planning Date: 7/25/2024

Printed packets due in Finance: 7/23/2024

Management Update: 6/25/2024

BOC upload / Board Session email: 7/24/2024

BOC Session Presenter(s) Brian Nicholas

FOR FINANCE USE

Comments: Y

REQUIRED APPROVALS

DocuSigned by:
[Signature]
E4592AE8CAA542C...
Finance - Contracts 8/8/2024
Date

Signed by:
Scott Norris
60C08A6F708240B...
Legal Counsel 8/8/2024
Date

DocuSigned by:
Alicia Jones
DA7EBDCC1E7B47D...
Contract Specialist 8/9/2024
Date

DocuSigned by:
Jan Fritz
1E084034588E463...
Chief Administrative Officer 8/8/2024
Date



MARION COUNTY BOARD OF COMMISSIONERS

Board Session Agenda Review FormMeeting date: August 14, 2024Department: Public Works

Title:

Consultant Services Agreement with Cushing Civil Engineers, Inc. for the Marion County Public Safety Radio Project

Management Update/Work Session Date: June 25, 2024Audio/Visual aids ☐Time Required: 10 minContact: Brian NicholasPhone: x7943

Requested Action:

Approve the attached consultant services agreement with Cushing Civil Engineers, Inc. in the amount of \$768,675.00 for the design of civil site improvements at various radio communication sites associated with the Marion County Public Safety Radio Project.

Issue, Description & Background:

Marion County is in the process of constructing a countywide public safety radio system for use by fourteen (14) existing radio sites and construction of at least one (1) new radio sites, plus prospective work at up to five (5) additional sites. The work is necessary to ensure the sites to which the proposed radio system is deployed have sufficient radio room space, primary and backup power, grounding, site security, and radio tower capacity to accommodate the new radio system. None of this work is provided by the radio vendor and must be constructed by Marion County before radio system deployment can begin.

Financial Impacts:

The total contract value is \$768,675.00, of which \$130,425.00 is assigned to contingency tasks that require separate authorization to perform. This is a budget expense in the 2024-25 fiscal year.

Impacts to Department & External Agencies:

The new radio system will benefit the Marion County Sheriff's Office, Juvenile Department, Dog Services, Public Works and more than 20 fire, police and ambulance services throughout Marion County by providing critical public safety-grade radio communications.

List of attachments:

CRS, PW-6087-24 Cushing Civil Engineers, Inc.

Presenter:

Brian Nicholas

Department Head Signature:

DocuSigned by:

Brian Nicholas

9793BA7ACD6D443...

MARION COUNTY
STANDARD PROFESSIONAL SERVICES CONTRACT
(Architectural, Engineering, Land Surveying and Related Services)

THIS PROFESSIONAL SERVICES CONTRACT (the "Contract") is between Marion County, a political subdivision of the State of Oregon, by and through its Public Works Department, (the "Owner"), and:

Company:	Cushing Civil Engineers, Inc.	Contract #:	PW-6087-24
Address:	12725 SW Millikan Way, Suite 300	Phone:	503-386-5331
City, State Zip:	Portland, OR 97227	Email:	kenny@CushingCivilEngineers.com

(the "Consultant") (collectively Owner and Consultant are referred to as the "Parties" and individually as "Party"). This Contract is for all Services related to completion of the project more particularly described as follows (the "Project"):

ARPA – Public Safety Radio System Project Site Improvements Design and Engineering, which involves the construction of site improvements needed to support the function and operation of Owner's prospective countywide public safety radio system at various radio sites within and around Marion County, Oregon.

This Contract shall become effective on the date the Contract is fully executed by the Parties and all required Marion County approvals have been obtained (the "Effective Date"). The Contract shall expire, unless otherwise terminated or extended, on **December 31, 2027**. Generally, the Services to be performed by Consultant on the Project consist of the following (the "Services"):

Design, engineering, permit acquisition and construction support for radio site improvements, including civil site design; structural, mechanical, electrical and geotechnical engineering; land surveying; natural, cultural, historical and archaeological resource permitting and clearance documentation; land use planning and permit acquisition; building permit acquisition; acquisition of permits specified by FAA and FCC, excluding radio frequency permits; construction plans, specifications, estimates and other bidding documents; bidding and construction support; and related Services.

The Services are more specifically described in the **EXHIBIT A, Statement of Work**. Owner agrees to pay Consultant a sum not to exceed **\$768,675.00** for performance of the Services, which shall include all allowable expenses. Progress payments shall be made in accordance with **EXHIBIT B, Consultant Compensation**.

If specified below, Owner's payments to Contractor under this agreement will be paid in whole or in part with federal funds. If so specified, by signing this agreement, Contractor certifies neither it nor its employees, contractors, subcontractors or subgrantees who will perform Project activities are currently employed by an agency or department of the federal government. If applicable, Contractor shall comply with **Exhibit H: Appendix II To Part 200 – Contract Provisions For Non-Federal Entity Contracts Under Federal Awards**.

In accordance with 2 CFR 200.331, Contractor has been designated:

- ☐ Subrecipient
☒ Contractor/Vendor
☐ Not applicable – (there are no federal funds tied to the contract)

Catalog of Federal Domestic Assistance (CFDA) #(s) of federal funds to be paid through this Grant: 21.027

This Contract consists of these introductory provisions and the signature page(s), Section 1 – Relationship of the Parties, Section 2 - Consultant's Responsibilities; Representations and Warranties, Section 3 – Responsibilities of

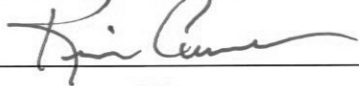


Owner; Special Contract Provisions, Section 4 – General Contract Provisions and the following exhibits attached hereto and incorporated herein by this reference:

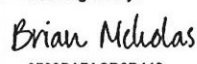
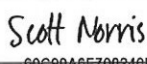
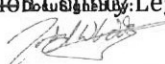
EXHIBIT A: Statement of Work
EXHIBIT B: Consultant Compensation
EXHIBIT C: Insurance Provisions
EXHIBIT D: Special Contract Provisions

EXHIBIT E: Critical Date Schedule
EXHIBIT F: Rate Schedule
EXHIBIT G: Assumptions and Exclusions
EXHIBIT H: Appendix II to Part 200

THIS CONTRACT CONSTITUTES THE ENTIRE AGREEMENT BETWEEN THE PARTIES ON THE SUBJECT MATTERS ADDRESSED HEREIN. THE TERMS OF THIS CONTRACT CANNOT BE WAIVED, ALTERED, MODIFIED, SUPPLEMENTED OR AMENDED, IN ANY MANNER WHATSOEVER, EXCEPT BY WRITTEN INSTRUMENT SIGNED BY THE PARTIES AND CONTAINING ALL REQUIRED APPROVALS. ANY SUCH WAIVER, ALTERATION, MODIFICATION, SUPPLEMENTATION OR AMENDMENT SHALL BE EFFECTIVE ONLY IN THE SPECIFIC INSTANCE AND FOR THE SPECIFIC PURPOSE GIVEN. THERE ARE NO UNDERSTANDINGS, AGREEMENTS, OR REPRESENTATIONS, ORAL OR WRITTEN, REGARDING THIS CONTRACT EXCEPT AS CONTAINED, INCORPORATED, OR REFERENCED HEREIN. CONSULTANT, BY THE SIGNATURE BELOW OF ITS AUTHORIZED REPRESENTATIVE, HEREBY ACKNOWLEDGES THAT IT HAS READ THIS CONTRACT, UNDERSTANDS THIS CONTRACT, AND AGREES TO BE BOUND BY ALL OF THIS CONTRACT'S TERMS AND CONDITIONS. THIS CONTRACT, AND ANY AMENDMENTS TO IT, MAY BE EXECUTED IN COUNTERPARTS (EACH OF WHICH SHALL BE AN ORIGINAL AND ALL OF WHICH SHALL CONSTITUTE BUT ONE AND THE SAME INSTRUMENT) OR IN MULTIPLE ORIGINALS.

**MARION COUNTY SIGNATURES
BOARD OF COMMISSIONERS:**

	8.14.2024
Chair	Date
	8/17/2024
Commissioner	Date
	8/14/2024
Commissioner	Date

Authorized Signature:		8/8/2024
	<small>0793BA7ACD6B443...</small>	
	Department Director or designee	Date
Authorized Signature:		8/8/2024
	<small>1E994034505E459...</small>	
	Chief Administrative Officer	Date
Reviewed by Signature:		8/8/2024
	<small>00C90A6F700240B...</small>	
	Marion County Legal Counsel	Date
Reviewed by Signature:		8/8/2024
	<small>E4592AF0CA542C...</small>	
	Marion County Contracts & Procurement	Date

CUSHING CIVIL ENGINEERS, INC. SIGNATURE

Authorized Signature: _____
Date: _____
Title: _____

1 RELATIONSHIP OF THE PARTIES

- 1.1 Consultant shall provide the Services for the Project in accordance with the terms and conditions of this Contract. Consultant's performance of Services shall be as a professional consultant to Owner to carry out the Project and to provide the technical documents and supervision to achieve Owner's Project objectives.
- 1.2 In administering this Contract, Owner may retain the services of an independent project manager and other consultants as needed to fulfill Owner's objectives.
- 1.3 Consultant shall provide a list of all sub-consultants which Consultant intends to utilize on the Project (the "**Sub-Consultants**"). This list shall include such information on the qualifications of the Sub-Consultants as may be requested by Owner. Owner reserves the right to review the Sub-Consultants proposed. Consultant shall not retain a Sub-Consultant to which Owner has a reasonable objection.
- 1.4 Consultant acknowledges that this Contract was awarded on the basis of the unique background and abilities of the key personnel of Consultant and Sub-Consultants identified by Consultant (collectively, the "**Key Personnel**" and individually, the "**Key Person**"). Therefore, Consultant shall make available Key Personnel as identified in its proposal. Consultant shall provide to Owner a list of the proposed Key Personnel to be assigned to the Project. This list shall include such information on the professional background of each Key Person as may be requested by Owner. If any Key Person becomes unavailable to Consultant, the Parties shall mutually agree upon an appropriate replacement. Without prior notice to, and the written consent of, Owner, Consultant shall not: (i) re-assign or transfer any Key Person to other duties or positions so that the Key Person is unable to fully perform his or her responsibilities under the Contract; (ii) allow any Key Person to delegate to anyone his or her performance of any management authority or other responsibility required under the Contract; or (iii) substitute any Key Person. Any of these actions shall constitute a material breach of the Contract. Consultant shall remove any individual or Sub-Consultant from the Project if so directed by Owner in writing following discussion with Consultant, provided that Consultant shall have a reasonable time period within which to find a suitable replacement.

2 CONSULTANT'S RESPONSIBILITIES; REPRESENTATIONS AND WARRANTIES

- 2.1 Consultant agrees that:
 - 2.1.1 The phrase "Standard of Care" that is used in this Contract is defined as follows: the same professional skill, care, diligence and standards as other professionals performing similar services under similar conditions (the "**Standard of Care**");
 - 2.1.2 Consultant shall perform all Services in accordance with the Standard of Care;
 - 2.1.3 Consultant shall prepare, in accordance with the Standard of Care, all drawings, specifications, deliverables and other documents so they accurately reflect, fully comply with and incorporate all applicable laws, rules, and regulations, and so they are complete and functional for the purposes intended, except as to any deficiencies which are due to causes beyond the control of Consultant;
 - 2.1.4 Consultant shall be responsible for correcting any inconsistencies, errors or omissions in the drawings, specifications, deliverables and other documents prepared by Consultant at no additional cost to Owner;

- 2.1.5** Owner's review or acceptance of documents shall not be deemed as approval of the adequacy of the drawings, specifications, deliverables, and other documents. Any review or acceptance by Owner will not relieve Consultant of any responsibility for complying with the Standard of Care;
- 2.1.6** Except as provided in Supplemental Services addressed within Exhibits A and B, Consultant shall, at no additional cost to Owner, render assistance to Owner in resolving problems or other issues relating to the Project design or to specified materials;
- 2.1.7** During the term of the Contract, Consultant shall obtain, hold, maintain and fully pay for all licenses and permits required by law for Consultant to conduct its business and perform the Services. During the term of the Contract, Owner shall pay for, and Consultant shall obtain, hold and maintain all licenses and permits required for the Project, unless otherwise specified in the Contract. Consultant shall review the Project site and the nature of the Services and advise Owner throughout the course of the Project as to the necessity of obtaining all Project permits and licenses, the status of the issuance of any such permits and licenses, and any issues or impediments related to the issuance or continuation of any such permits and licenses; and
- 2.1.8** Consultant shall pay all Sub-Consultants and other subcontractors as required by Consultant's contracts with those Sub-Consultants and subcontractors. Consultant agrees that Owner has no direct or indirect contractual obligation or other legal duty whatsoever to pay the Sub-Consultants and other subcontractors of Consultant or otherwise ensure that Consultant makes full and timely payment to those Sub-Consultants and subcontractors for Services performed on the Project.
- 2.2** Consultant represents and warrants to Owner that:

 - 2.2.1** Consultant has the power and authority to enter into and perform this Contract; the persons executing this Contract on behalf of Consultant have the actual authority to bind Consultant to the terms of this Contract;
 - 2.2.2** When executed and delivered, this Contract shall be a valid and binding obligation of Consultant enforceable in accordance with its terms; the provisions of this Contract do not conflict with or result in a default under any agreement or other instrument binding upon Consultant and do not result in a violation of any law, regulation, court decree or court order or other legal process applicable to Consultant;
 - 2.2.3** Consultant shall, at all times during the term of this Contract, be duly licensed to perform the Services, and if there is no licensing requirement for the profession or Services, be duly qualified and competent;
 - 2.2.4** Consultant is an experienced firm having the skill, legal capacity, and professional ability necessary to perform all the Services required under this Contract and to design and administer a project having the scope and complexity of the Project;
 - 2.2.5** Consultant has the capabilities and resources necessary to perform Consultant's obligations under this Contract;
 - 2.2.6** Consultant is, or shall become, in a manner consistent with the Standard of Care, familiar with all current laws, rules, and regulations which are applicable to the design and construction of the Project;
 - 2.2.7** All Services shall be performed in accordance with the Standard of Care;

2.2.8 The Project, when completed and if constructed in accordance with the intent established by the drawings, specifications, deliverables and other documents prepared by Consultant pursuant to this Contract, shall be structurally sound and a complete and properly functioning facility suitable for the purposes for which it is intended; and

2.3 The warranties set forth in this section are in addition to, and not in lieu of, any other warranties provided in this Contract or at law.

3 RESPONSIBILITIES OF OWNER; SPECIAL CONTRACT PROVISIONS

Owner's responsibilities under this Contract, and certain additional responsibilities of Consultant, are set forth in Exhibit D – Special Contract Provisions.

4 GENERAL CONTRACT PROVISIONS

4.1 *Contract Performance.* Consultant shall at all times perform the Services diligently and without delay and shall punctually fulfill all Contract requirements consistent with the schedule for the performance of Services set forth herein. Expiration or termination of the Contract shall not extinguish, prejudice, or limit either party's right to enforce this Contract with respect to any default or defect in performance. Time is of the essence in the performance of this Contract.

4.2 *Access to Records.* For not less than ten (10) years after the Contract's expiration or termination, Owner, the Secretary of State's Office of the State of Oregon, the federal government, and their duly authorized representatives shall have access to the books, documents, papers, and records of Consultant and the Sub-consultants which pertain to the Contract for the purpose of making audits, examination, excerpts, and transcripts. If, for any reason, any part of this Contract, any Project-related consultant contract or any Project-related construction contract(s) is involved in litigation, Consultant shall retain all pertinent records for not less than seven (7) years or until all litigation is resolved, whichever is longer. Consultant shall provide Owner and the other entities referenced above with full access to these records in preparation for and during litigation.

4.3 *Funds Available and Authorized.* Owner reasonably believes as of the Effective Date that sufficient funds are available and authorized for expenditure to finance the cost of this Contract within Owner's appropriation or limitation. Consultant understands and agrees that, to the extent that sufficient funds are not available and authorized for expenditure to finance the cost of this Contract, Owner's payment of amounts under this Contract attributable to Services performed after the last day of the current budget cycle is contingent upon County budgeting and appropriating funds or other expenditure authority sufficient to allow County, in the exercise of its reasonable administrative discretion, to continue to make payments under this Contract.

4.4 *Insurance.* Consultant shall maintain in effect for the duration of this Contract, or any other time periods required herein, the insurance set forth in Exhibit C – Insurance Provisions.

4.5 *Indemnity.*

4.5.1 CLAIMS FOR OTHER THAN PROFESSIONAL LIABILITY. CONSULTANT SHALL INDEMNIFY, DEFEND, SAVE, AND HOLD HARMLESS OWNER, AND ITS OFFICERS, AGENTS, AND EMPLOYEES, FROM AND AGAINST ALL CLAIMS, SUITS, ACTIONS, LOSSES, DAMAGES, LIABILITIES, COSTS AND EXPENSES OF WHATSOEVER NATURE RESULTING FROM OR ARISING OUT OF THE ACTS OR OMISSIONS OF CONSULTANT OR ITS SUB-CONSULTANTS, SUBCONTRACTORS, AGENTS, OR EMPLOYEES UNDER THIS CONTRACT.

4.5.2 CLAIMS FOR PROFESSIONAL LIABILITY. CONSULTANT SHALL INDEMNIFY, DEFEND, SAVE, AND HOLD HARMLESS OWNER, AND ITS OFFICERS, AGENTS, AND EMPLOYEES, FROM AND AGAINST ALL CLAIMS, SUITS, ACTIONS, LOSSES, DAMAGES, LIABILITIES, COSTS AND EXPENSES OF WHATSOEVER NATURE ARISING OUT OF THE PROFESSIONALLY NEGLIGENT ACTS, ERRORS OR OMISSIONS OF CONSULTANT OR ITS SUB CONSULTANTS, SUBCONTRACTORS, AGENTS, OR EMPLOYEES IN THE PERFORMANCE OF PROFESSIONAL SERVICES UNDER THIS CONTRACT.

4.5.3 Owner Defense Requirements. Notwithstanding the obligations under Sections 4.5.1 and 4.5.2, neither Consultant nor any attorney engaged by Consultant shall defend any claim in the name of Marion County, nor purport to act as legal representative of Marion County or any of its agencies, without the prior written consent of Marion County Legal Counsel. Owner may, at any time and at its election, assume its own defense and settlement of any claims in the event that: it determines that Consultant is prohibited from defending Marion County; Consultant is not adequately defending Marion County's interests; an important governmental principle is at issue; or it is in the best interests of Marion County to do so, Marion County reserves all rights to pursue any claims it may have against Consultant if Marion County elects to assume its own defense.

4.5.4 Owner's Actions. This Section 4.5 does not include indemnification by Consultant of Owner or their officers, agents, and employees, for the acts or omissions of the Owner or their officers, agents, and employees, whether within the scope of the Contract or otherwise.

4.6 *Consultant's Status.*

4.6.1 Consultant shall perform all Services as an independent contractor. Although Owner reserves the right to set the delivery schedule for the Services to be performed and to evaluate the quality of the completed performance, Owner cannot and will not control the means and manner of Consultant's performance. Consultant is responsible for determining the appropriate means and manner of performing the Services. Consultant, Consultant's employees and the Sub-consultants are not "officers, employees, or agents" of Owner, as those terms are used in ORS 30.265.

4.6.2 Consultant shall not have control or charge of, and shall not be responsible for, the acts or omissions of other consultants or contractors under contract with Owner who are performing services or construction work on the Project. However, this provision does not in any way change Consultant's professional responsibility to report to Owner any information, including information on the performance of consultants or contractors outside the control or charge of Consultant, concerning activities or conditions that have or could have an adverse effect on Owner or the Project.

4.6.3 Consultant is not a contributing member of the Public Employee's Retirement System and will be responsible for any federal, state, or other taxes applicable to any compensation or payments paid to Consultant under this Contract. Consultant will not be eligible for any benefits from any payments made under this Contract for federal Social Security, unemployment insurance, or worker's compensation, except as a self-employed individual. If any payment under this Contract is to be charged against federal funds, Consultant certifies that it is not currently employed by the federal government.

4.7 *Successors & Assignments.* The provisions of this Contract shall be binding upon and shall inure to the benefit of the Parties and their respective successors and assigns. After the original Contract is executed, Consultant shall not enter into any Sub-consultant agreements for any of the Services or assign or transfer any of its interest in this Contract, without the prior written consent of Owner.

- 4.8 Compliance with Applicable Law.** Consultant shall comply with all federal, state and local laws, regulations, executive orders and ordinances applicable to the Services. Owner's performance under this Contract is conditioned upon Consultant's compliance with the provisions of ORS 279C.505, 279C.515, 279C.520, and 279C.530, which are hereby incorporated by reference. Consultant, the Sub-consultants, if any, and all employers providing Services, labor or materials under this Contract are subject employers under the Oregon workers' compensation law and shall comply with ORS 656.017.
- 4.9 Governing Law; Jurisdiction; Venue.** This Contract shall be governed by and construed in accordance with the laws of the State of Oregon without regard to principles of conflicts of law. Any claim, action, suit or proceeding (collectively "Claim") between Owner and Consultant that arises from or relates to this Contract shall be brought and conducted solely and exclusively within the Circuit Court of Marion County for the State of Oregon; provided, however, if a Claim must be brought in a federal forum, then it shall be brought and conducted solely and exclusively within the United States District Court for the District of Oregon. In no event shall this "Governing Law; Jurisdiction; Venue" section be construed as a waiver by Marion County of any form of defense or immunity, whether based on sovereign immunity, governmental immunity, immunity based on the Eleventh Amendment to the United States Constitution or otherwise. CONSULTANT, BY EXECUTION OF THIS CONTRACT, HEREBY CONSENTS TO THE IN PERSONAM JURISDICTION OF SAID COURTS.
- 4.10 Tax Compliance Certification.**
- 4.10.1** By signature on this Contract, the undersigned certifies under penalty of perjury that the undersigned is authorized to act on behalf of Consultant and that Consultant is, to the best of the undersigned's knowledge, not in violation of any Oregon Tax Laws.
- 4.10.2** For purposes of this certification, "Oregon Tax Laws" means a state tax imposed by ORS 401.792 to 401.816 (Tax For Emergency Communications), 118 (Inheritance Tax), 314 (Income Tax), 316 (Personal Income Tax), 317 (Corporation Excise Tax), 318 (Corporation Income Tax), 320 (Amusement Device and Transient Lodging Taxes), 321 (Timber and Forestland Tax), 323 (Cigarettes and Tobacco Products Tax), the elderly rental assistance program under ORS 310.630 to 310.706, and any local taxes administered by the Department of Revenue under ORS 305.620.
- 4.11 Severability.** The Parties agree that if any term or provision of this Contract is declared by a court of competent jurisdiction to be illegal or in conflict with any law, the validity of the remaining terms and provisions shall not be affected, and the rights and obligations of the Parties shall be construed and enforced as if the Contract did not contain the particular term or provision held to be invalid.
- 4.12 Force Majeure.** Neither party shall be held responsible for delay or default in the performance of its obligations due to a cause beyond its reasonable control, including, but not limited to fire, riot, acts of God, terrorist acts or war where such cause was beyond such party's reasonable control. Each party shall, however, make all reasonable efforts to remove or eliminate such a cause of delay or default and shall, upon the cessation of the cause, diligently pursue performance of its obligations under the Contract.
- 4.13 Waiver.** The failure of Owner to enforce any provision of this Contract shall not constitute a waiver by Owner of that or any other provision.
- 4.14 Third Party Beneficiaries.** Nothing contained in this Contract shall create a contractual relationship with or a cause of action in favor of a third party against Owner or Consultant. Consultant's Services under this Contract shall be performed solely for Owner's benefit and no other entity or person shall have any claim against Consultant because of this Contract for the performance or nonperformance of Services hereunder.

4.15 Ownership of Work Product; Confidentiality.

4.15.1 Definitions. As used in this Contract, the following terms have the meanings set forth below:

4.15.1.1 "Consultant Intellectual Property" means any intellectual property that is owned by Consultant and developed independently from this Contract and that is applicable to the Services or included in the Work Product.

4.15.1.2 "Third Party Intellectual Property" means any intellectual property that is owned by parties other than Owner or Consultant and that is applicable to the Services or included in the Work Product.

4.15.1.3 "Work Product" means the Services Consultant delivers or is required to deliver to Owner under this Contract. Work Product includes every invention, discovery, work of authorship, trade secret or other tangible or intangible item and all intellectual property rights therein, and all copies of plans, specifications, reports, and other materials, whether completed, partially completed or in draft form.

4.15.2 Work Product. Except as provided in Sections 4.15.3 and 4.15.4, all Work Product created by Consultant pursuant to this Contract, including derivative works and compilations, and whether or not such Work Product is considered a "work made for hire" or an employment to invent, shall be the exclusive property of Owner. Owner and Consultant agree that such original works of authorship are "work made for hire" of which Owner is the author within the meaning of the United States Copyright Act. To the extent that Owner is not the owner of the intellectual property rights in such Work Product, Consultant hereby irrevocably assigns to Owner any and all of its rights, title, and interest in all original Work Product created pursuant to this Contract, whether arising from copyright, patent, trademark, trade secret, or any other state or federal intellectual property law or doctrine. Upon Owner's reasonable request, Consultant shall execute such further documents and instruments necessary to fully vest such rights in Owner. Consultant forever waives any and all rights relating to original Work Product created pursuant to this Contract, including without limitation, any and all rights arising under 17 USC §106A or any other rights of identification of authorship or rights of approval, restriction or limitation on use or subsequent modifications.

4.15.3 Consultant Intellectual Property. In the event that Consultant Intellectual Property is necessary for the use of any Work Product, Consultant hereby grants to Owner an irrevocable, non-exclusive, non-transferable, perpetual, royalty-free license to use Consultant Intellectual Property, including the right of Owner to authorize contractors, consultants and others to use Consultant Intellectual Property, for the purposes described in this Contract.

4.15.4 Third Party Intellectual Property. In the event that Third Party Intellectual Property is necessary for the use of any Work Product, Consultant shall secure on Owner's behalf and in the name of Owner, an irrevocable, non-exclusive, non-transferable, perpetual, royalty-free license to use the Third-Party Intellectual Property, including the right of Owner to authorize contractors, consultants and others to use the Third Party Intellectual Property, for the purposes described in this Contract.

4.15.5 Consultant Intellectual Property-Derivative Work. In the event that Work Product created by Consultant under this Contract is a derivative work based on Consultant Intellectual Property or is a compilation that includes Consultant Intellectual Property, Consultant hereby grants to Owner an irrevocable, non-exclusive, non-transferable, perpetual, royalty-free license to use the pre-existing elements of Consultant Intellectual Property employed in the Work Product,

including the right of Owner to authorize contractors, consultants and others to use the pre-existing elements of Consultant Intellectual Property employed in a Work Product, for the purposes described in this Contract.

- 4.15.6 Third Party Intellectual Property-Derivative Work.** In the event that Work Product created by Consultant under this Contract is a derivative work based on Third Party Intellectual Property, or is a compilation that includes Third Party Intellectual Property, Consultant shall secure on Owner's behalf and in the name of Owner an irrevocable, non-exclusive, non-transferable, perpetual, royalty-free license to use the pre-existing elements of the Third Party Intellectual Property employed in a Contract Work Product, including the right to authorize contractors, consultants and others to use the pre-existing elements of the Third Party Intellectual Property employed in a Contract Work Product, for the purposes described in this Contract.
- 4.15.7 Limited Owner Indemnity.** To the extent permitted by the Oregon Constitution, Article XI, Section 7, and by the Oregon Tort Claims Act, ORS 30.260 through 30.397, Consultant shall be indemnified and held harmless by Owner from liability arising out of re-use or alteration of the Work Product by Owner which was not specifically contemplated and agreed to by the Parties in this Contract or under separate contract.
- 4.15.8 Consultant Use of Work Product.** Consultant may refer to the Work Product in its brochures or other literature that Consultant utilizes for advertising purposes and, unless otherwise specified, Consultant may use standard line drawings, specifications, and calculations on other, unrelated projects.
- 4.15.9 Confidential Information.** Consultant acknowledges that it or its employees, Sub-consultants, subcontractors or agents may, in the course of performing their responsibilities under this Contract, be exposed to or acquire information that is the confidential information of Owner or Owner's clients. Any and all information provided by Owner and marked confidential, or identified as confidential in a separate writing, that becomes available to Consultant or its employees, Sub-consultants, subcontractors or agents in the performance of this Contract shall be deemed to be confidential information of Owner ("Confidential Information"). Any reports or other documents or items, including software, that result from Consultant's use of the Confidential Information and any Work Product that Owner designates as confidential are deemed Confidential Information. Confidential Information shall be deemed not to include information that: (a) is or becomes (other than by disclosure by Consultant) publicly known; (b) is furnished by Owner to others without restrictions similar to those imposed by this Contract; (c) is rightfully in Consultant's possession without the obligation of nondisclosure prior to the time of its disclosure under this Contract; (d) is obtained from a source other than Owner without the obligation of confidentiality; (e) is disclosed with the written consent of Owner; or (f) is independently developed by employees or agents of Consultant who can be shown to have had no access to the Confidential Information.
- 4.15.10 Non-Disclosure.** Consultant agrees to hold Confidential Information in strict confidence, using at least the same degree of care that Consultant uses in maintaining the confidentiality of its own confidential information, and not to copy, reproduce, sell, assign, license, market, transfer or otherwise dispose of, give, or disclose Confidential Information to third parties or use Confidential Information for any purposes whatsoever other than the provision of Services to Owner under this Contract, and to advise each of its employees, Sub-consultants, subcontractors and agents of their obligations to keep Confidential Information confidential. Consultant shall use its best efforts to assist Owner in identifying and preventing any unauthorized use or disclosure of any Confidential Information. Without limiting the generality of the foregoing, Consultant shall

advise Owner immediately in the event Consultant learns or has reason to believe that any person who has had access to Confidential Information has violated or intends to violate the terms of this Contract and Consultant will at its expense cooperate with Owner in seeking injunctive or other equitable relief in the name of Owner or Consultant against any such person. Consultant agrees that, except as directed by Owner, Consultant will not at any time during or after the term of this Contract disclose, directly or indirectly, any Confidential Information to any person, except in accordance with this Contract, and that upon termination of this Contract or at Owner's request, Consultant will turn over to Owner all documents, papers, and other matter in Consultant's possession that embody Confidential Information.

- 4.15.11 Injunctive Relief.** Consultant acknowledges that breach of this Section 4.15, including disclosure of any Confidential Information, will give rise to irreparable injury to Owner that is inadequately compensable in damages. Accordingly, Owner may seek and obtain injunctive relief against the breach or threatened breach of this Section 4.15, in addition to any other legal remedies that may be available. Consultant acknowledges and agrees that the covenants contained herein are necessary for the protection of the legitimate business interests of Owner and are reasonable in scope and content.
- 4.15.12 Publicity.** Consultant agrees that news releases and other publicity relating to the subject of this Contract will be made only with the prior written consent of Owner.
- 4.15.13 Security.** Consultant shall comply with all virus-protection, access control, back-up, password, and other security and other information technology policies of Owner when using, having access to, or creating systems for any of Owner's computers, data, systems, personnel, or other information resources.

4.16 *Termination.*

- 4.16.1 Parties Right to Terminate by Agreement.** This Contract may be terminated at any time, in whole or in part, by written mutual consent of the Parties.
- 4.16.2 Owner's Right to Terminate for Convenience.** Owner may, at its sole discretion, terminate this Contract, in whole or in part, by written notice to Consultant specifying the termination date of the Contract.
- 4.16.3 Owner's Right to Terminate for Cause.** Owner may terminate this Contract immediately, in whole or in part, upon written notice to Consultant, or such later date as Owner may establish in such notice, upon the occurrence of any of the following events:
 - 4.16.3.1** In the event the Board of Commissioners of the COUNTY, in the exercise of its reasonable discretion, reduces, changes, eliminates, or otherwise modifies the funding for any of the services identified, the Consultant agrees to abide by any such decision including termination of service;
 - 4.16.3.2** Federal, state or local laws, regulations or guidelines are modified or interpreted in such a way that either the Services under this Contract are prohibited or Owner is prohibited from paying for such Services from the planned funding source;
 - 4.16.3.3** Consultant no longer holds all licenses or certificates that are required to perform the Services; or

4.16.3.4 Consultant fails to provide Services within the times specified or allowed under this Contract; fails to perform any of the provisions of this Contract; or so fails to perform the Services as to endanger performance of this Contract in accordance with its terms, and after receipt of written notice from Owner, does not correct such failures within the time that Owner specifies (which shall not be less than 10 calendar days, except in the case of emergency).

4.16.4 Cessation of Services. Upon receiving a notice of termination, and except as otherwise directed in writing by Owner, Consultant shall immediately cease all activities related to the Services or the Project.

4.16.5 Consultant's Right to Terminate for Cause.

4.16.5.1 Consultant may terminate this Contract if Owner fails to pay Consultant pursuant to this Contract, provided that Owner has failed to make such payment to Consultant within fifteen (15) calendar days after receiving written notice from Consultant of such failure.

4.16.5.2 Consultant may terminate this Contract, for reasons other than non-payment, if Owner commits any material breach or default of any covenant, warranty, obligation or agreement under this Contract, fails to perform under the Contract within the time specified, or so fails to perform as to endanger Consultant's performance under this Contract, and such breach, default or failure is not cured within thirty (30) calendar days after delivery of Consultant's notice, or such longer period as Consultant may specify in such notice.

4.16.6 Delivery of Work Product/Retained Remedies of Owner. As directed by Owner, Consultant shall, upon termination, promptly deliver to Owner all documents, information, works in progress and other property that are deliverables or would be deliverables if the Contract had been completed. By Consultant's signature on this Contract, Consultant allows Owner to use Work Product and other property for Owner's intended use. The rights and remedies of Owner provided in this Section 4.16 are not exclusive and are in addition to any other rights and remedies provided by law or under this Contract.

4.16.7 Payment upon Termination.

4.16.7.1 In the event of termination pursuant to Sections 4.16.1, 4.16.2, 4.16.3.1, 4.16.3.2 or 4.16.5, Consultant's sole remedy shall be a claim for the sum designated for accomplishing the Services multiplied by the percentage of Services completed and accepted by Owner plus Consultant's reasonable Contract close-out costs, less previous amounts paid and any claim(s) which Owner has against Consultant, except in the event of a termination under Section 4.16.3.1, where no payment will be due and payable for Services performed or costs incurred after the last day of the current biennium, consistent with Section 4.3. Within thirty (30) days after termination, Consultant shall submit an itemized invoice for all un-reimbursed Services completed before termination and all Contract close-out costs actually incurred by Consultant. Owner shall not be obligated to pay for any such costs invoiced to and received by Owner later than thirty (30) days after termination. If previous amounts paid to Consultant exceed the amount due to Consultant under this subsection, Consultant shall promptly refund any excess amount upon demand.

4.16.7.2 In the event of termination pursuant to Sections 4.16.3.3 or 4.16.3.4, Owner shall have any remedy available to it in law or equity. Such remedies may be pursued separately, collectively or in any order whatsoever. If it is determined for any reason that Consultant was not in default under Sections 4.16.3.3 or 4.16.3.4, the rights and obligations of the Parties shall be the same as if the Contract was terminated pursuant to Section 4.16.2.

- 4.17 *Foreign Contractor.*** If Consultant is not domiciled in or registered to do business in the State of Oregon as of the Effective Date, Consultant shall promptly provide to the Oregon Department of Revenue and the Secretary of State's Corporation Division all information required by those agencies relative to this Contract. Consultant shall demonstrate its legal capacity to perform the Services under this Contract in the State of Oregon prior to executing this Contract.
- 4.18 *Notice.*** Except as otherwise expressly provided in this Contract, any notices to be given hereunder shall be given in writing by personal delivery, facsimile, or mail, postage prepaid, to Consultant or Owner at the address or number set forth on Exhibit A, or to such other address or number as either party may provide pursuant to this "Notice" section. Any notice delivered by mail shall be deemed to be given five (5) calendar days after the date of mailing. Any notice delivered by facsimile shall be deemed to be given when the transmitting machine generates a receipt of the transmission. To be effective against Owner, any facsimile communication or notice must be confirmed by telephone notice to Owner's Representative for the Project as indicated in Exhibit A and shall not be deemed to be given until such confirmation is completed. Any notice by personal delivery shall be deemed to be given when actually delivered. Regular, day-to-day communications between the Parties may be transmitted through one of the methods set forth above, in person, by telephone, by e-mail, or by other similar electronic transmission.
- 4.19 *Media Contacts; Confidentiality.*** Consultant shall provide no news release, press release, or any other statement to a member of the news media regarding this Project, without Owner's prior written authorization.
- 4.20 *Conflict of Interest.*** Except with Owner's prior written consent, Consultant shall not engage in any activity, or accept any employment, interest or contribution that would, or would reasonably appear to, compromise Consultant's professional judgment with respect to this Project, including, without limitation, concurrent employment on any project in direct competition with the Project.

Exhibits A through G are attached.

MARION COUNTY STANDARD PROFESSIONAL SERVICES CONTRACT

EXHIBIT A – STATEMENT OF WORK

Owner and Consultant agree that the following Services shall be provided by Consultant for the design and construction of the Project. The completed Project is intended to produce fully functional radio sites capable of supporting the operation of Owner's prospective countywide public safety radio system. For purposes of this Contract, "**Authorized Tasks**" are those tasks that Consultant is authorized to perform upon the issuance of a Project Notice-to-Proceed by Owner, "**Contingency Tasks**" are those tasks that Consultant is not authorized to perform until Owner has issued separate written notice (email acceptable) authorizing Consultant to proceed with the Contingency Task, and "**Reserved Tasks**" are those tasks that are undefined but may be added by amendment at a later time.

PROJECT DESCRIPTION: The Project will construct site improvements at up to twenty-two (22) new and existing radio sites, which include the following:

- | | |
|------------------------------------|------------------------------------|
| 1. Cascades Radio Site #1 (NEW) | 12. McCulley Mountain Radio Site |
| 2. Crooked Finger Radio Site (NEW) | 13. METCOM 911 Dispatch Center |
| 3. Crosby Radio Site | 14. North Fork Radio Site #1 (NEW) |
| 4. Eagle Crest Radio Site | 15. North Fork Radio Site #2 (NEW) |
| 5. Eastview Lane Radio Site | 16. Parrott Mountain Radio Site |
| 6. Halls Ridge Radio Site | 17. Santiam Communications Center |
| 7. House Mountain Radio Site | 18. Silver Falls Radio Site |
| 8. Lower Prospect Radio Site | 19. Stayton Hospital |
| 9. Mad Creek Radio Site | 20. Upper Prospect Radio Site |
| 10. Marion County Courthouse | 21. Whipper Radio Site |
| 11. Marion County Public Works | 22. Whitewater Radio Site |

Services include civil, structural, electrical, mechanical and geotechnical engineering; preparation of plans, specifications, estimates and related construction documents; natural, cultural, historic and archaeological investigations, documentation and clearances; building, planning, environmental and regulatory permit acquisition; bidding support; construction oversight, and all related Services.

PROJECT PHILOSOPHY: Consultant shall perform professional services for the design of the Project to obtain the greatest long-term value for Marion County, and to result in the prudent expenditure of public funds within the constraints of the Project program, context, and budget. In pursuing these goals, Consultant, with Owner's assistance, shall:

1. Perform Services that are appropriate for the context of the Project and the nature of its function, both present and future.
2. Avoid expenditures for aesthetic effect that are disproportionate when compared to the additional benefit to the Project as a whole.
3. Help ensure the Project is completed on time and within budget.
4. Strive to reduce the construction cost of the Project while keeping life-cycle costs low.
5. Apprise Owner throughout the Project concerning the economic impact of all design decisions.
6. Document all Project requirements and verify, to Owner's satisfaction, that requirements are included in the Construction Documents.

Representatives of the Parties for this Contract and the Project are:

Consultant: **Kenny McManaway** Telephone: **503-387-5331** email: Kenny@CushingCivilEngineers.com

Owner: **Brian Nicholas** Telephone: **503-588-7943** email: bnicholas@co.marion.or.us

The Services that Consultant shall perform are defined below:

A.1 TASK DESCRIPTIONS

Consultant shall perform the following Services and provide the associated deliverables at each Project site so designated in **EXHIBIT B.1, TASK AUTHORIZATIONS**.

Task 1. Site Visit, Data Collection and Point Cloud Capture

Consultant shall visit the Project site, familiarize itself with the site conditions, gather existing condition data, perform digital LIDAR scans to produce a detailed point cloud of the site, and take manual measurements, aerial drone images, photographs, and notes. Owner will pay for a maximum of one (1) visit by Consultant to the site. The data collected under this task will be used by Consultant to generate the preliminary concept site plan under **Task 2**.

Deliverables: Work products associated with this task shall be incorporated into the deliverables of Task 2.

Task 2. Site Sketch

Consultant shall prepare a Preliminary Concept Site Plan for the Project site, including the compilation of information gathered under **Task 1**. The preliminary concept site plan will serve as the design base for demonstrating space planning of basic footprints for compound, shelter and tower, as applicable, and for the preparation of construction plans and exhibits.

Conditions / Assumptions: Owner shall review and approve the preliminary concept site plan prior to the preparation of plans and exhibits by Consultant. Limited to one (1) plan revision per Owner review.

Deliverables: Preliminary Concept Site Plan – electronic copy in Adobe Acrobat (.pdf) format; CADD file in AutoCAD (.dwg) format.

Task 3. Zoning Analysis Report

Consultant shall perform a comprehensive review of the property zoning and applicable land use regulations applicable to the Project site, and report the necessary actions to be taken, documents to be prepared and fees to be paid to successfully obtain land use planning approval of the proposed improvements to the Project site.

Deliverables: Zoning Analysis Report – electronic copy in Adobe Acrobat (.pdf) format.

Task 4. Zoning / Land Use Documents

Consultant shall prepare AutoCAD exhibits required for the successful submission of a land use permit application for the Project site, including Cover Sheet, Survey Data Sheet, Overall Site Plan Sheet, Enlarged Plan View Sheet and Elevation View Sheet.

Conditions / Assumptions:

1. Deliverable is assumed to consist of four (4) to five (5) plan sheets.
2. Owner shall review and approve zoning / land use documents prior to further design by Consultant. Owner shall provide comment within five (5) business days of receipt of draft documents. Scope is limited to two (2) rounds of redline comments by Owner.
3. Owner shall provide all Radio Frequency ("RF") information necessary for the preparation of documents.

Deliverables: Zoning / Land Use Documents – electronic copy in Adobe Acrobat (.pdf) format; CADD file in AutoCAD (.dwg) format.

Task 5. Construction Documents

Consultant shall prepare construction documents for the Project site consisting of:

1. Zoning / Land Use Documents with additional site details
2. Site Grounding Plan and details
3. RF Plan and details
4. Utility Plan, Generator and Fuel Storage Plan and details
5. Construction Specifications

Final, bid-ready plans shall be stamped by the Engineer of Record ("EOR").

Conditions / Assumptions:

1. Owner shall review and approve deliverables prior to stamping by the EOR. Owner shall provide comment within five (5) business days of receipt of draft documents. Scope is limited to two (2) rounds of redline comments by Owner.
2. Owner shall provide all RF information necessary for the preparation of documents.

Deliverables: Stamped Construction Plans and Specifications – original stamped plot (hard copy); scanned copy in Adobe Acrobat (.pdf) format; CADD file in AutoCAD (.dwg) format.

Task 6. Grading and Erosion Control Plans

Consultant shall prepare grading and erosion control plans conforming to jurisdictional standards applicable to the site and the jurisdictional agency's Best Management Practices ("BMP"). Plans shall include control benchmark(s), proposed contours and finished grade reference elevations, as needed, to adequately control construction. Final, bid-ready plans shall be stamped by the EOR.

Conditions / Assumptions: Owner shall review and approve deliverables prior to stamping by the EOR. Owner shall provide comment within five (5) business days of receipt of draft documents. Scope is limited to two (2) rounds of redline comments by Owner.

Deliverables: Stamped Construction Plans and Specifications – original stamped plot (hard copy); scanned copy in Adobe Acrobat (.pdf) format; CADD file in AutoCAD (.dwg) format.

Task 7. Stormwater Report

Consultant shall provide an abbreviated stormwater report appropriate for wireless communication compounds, including any additional impervious area, conforming to jurisdictional standards applicable to the site. Report recommendations shall be incorporated into the deliverables of Tasks 5 and 6. The final report shall be stamped by the EOR.

Deliverables: Stormwater Report – original stamped report (hard copy); scanned copy in Adobe Acrobat (.pdf) format.

Task 8. Utility Coordination

Consultant shall identify, map, and coordinate design activities with utility and telecommunication companies, including pre-construction calls for locates. Approximate utility locations and proposed utility work shall be incorporated into the deliverables for **Tasks 5 and 6**. Consultant shall list utility points of contact and all construction phase utility obligations in the construction specifications for handoff to the construction contractor and shall document its work in a Utility Coordinate Report.

Deliverables: Utility Coordination Report – original report in Adobe Acrobat (.pdf) format.

Task 9. Grounding Plan

Consultant shall provide a grounding design and plan conforming to Motorola R56 or similar standards reflecting the calculated length of conductor needed to achieve the grounding target based upon soil resistivity tests (provided under **Task 16**). The final, construction-ready plan shall be stamped by the EOR.

Conditions / Assumptions:

1. Depending on soil conditions, the calculated length of conductor needed to satisfy R56 standards may not be realistically achieved with the limits of the site, which may require Owner to obtain easement(s) on adjacent land(s) or utilize an alternative grounding standard.
2. Owner shall review and approve deliverables prior to stamping by the EOR. Owner shall provide comment within five (5) business days of receipt of draft documents. Scope is limited to two (2) rounds of redline comments by Owner.

Deliverables: Stamped Construction Plans and Specifications – original stamped plot (hard copy); scanned copy in Adobe Acrobat (.pdf) format; CADD file in AutoCAD (.dwg) format.

Task 10. Visual Impact Study

Consultant shall prepare photo simulations from four (4) representative views of the proposed or existing tower, as applicable, conforming to jurisdictional standards applicable to the site. Deliverables may be further utilized in **Tasks 17, 19 and 26**.

Conditions / Assumptions: Photos to be provided by the Surveyor under **Task 28** utilizing survey grade camera and GPS equipment.

Deliverables: Visual Impact Study – electronic copy in Adobe Acrobat (.pdf) format.

Task 11. Meetings

Consultant shall conduct up to three (3) design development meetings with Owner in person or remotely to coordinate design activities, solicit and receive input from Owner, and report on project status.

Conditions / Assumptions: Meetings beyond three (3) will be charged on a time and material basis.

Deliverables: Meeting Notes – Consultant's chosen format.

Task 12. Construction Administration

During Construction, Consultant shall respond to Requests for Information ("RFI") submitted by the construction contractor, review construction submittals, provide general consultation to Owner, and related Services.

Conditions / Assumptions: Consultant shall conduct site visits during construction at Owner's request. Such visits shall be charged on a time and material basis.

Deliverables: RFI responses and submittal review comments (variable).

Task 13. Engineering Project Management and Coordination

Consultant shall manage and oversee Consultant's design and engineering activities, administer the Contract and Consultant's subcontracts, maintain project communications, prepare and submit invoices and supporting documentation, and related Services.

Deliverables: Monthly invoices conforming to **EXHIBIT B – CONSULTANT COMPENSATION**.

Task 14. Geotechnical Investigation and Report

Consultant shall conduct geotechnical subsurface exploration and analysis of the Project site for design and installation of a new communications tower and/or building foundation design. Consultant shall document its geotechnical findings and design recommendations in a Geotechnical Design Report. The final report shall be stamped by the EOR.

Conditions / Assumptions: Owner shall provide drill rig access to the Project site.

Deliverables: Geotechnical Design Report – original stamped report (hard copy); electronic copy in Adobe Acrobat (.pdf) format.

Task 15. Geotechnical Seismic Analysis

Consultant shall perform geotechnical seismic analysis of new tower installation for essential facility applications. Analysis shall conform to the Oregon Specialty Structures Code. The results of the analysis shall be incorporated into the deliverable of **Task 14**.

Deliverables: None.

Task 16. Soil Resistivity Testing

Consultant shall perform soil resistance investigation and testing of the Project site in accordance with the Wenner Four-Electrode Method. The work product shall be suitable for use in the design and construction of new site grounding systems and improvements to existing grounding systems. Consultant shall document its findings and design recommendations in a Site Grounding Report. Test results shall be incorporated into the deliverable for **Task 9**.

Deliverables: Site Grounding Report – electronic copy in Adobe Acrobat (.pdf) format.

Task 17. NEPA FCC Checklist

Consultant shall prepare the FCC-mandated National Environmental Policy Act (“**NEPA**”) checklist and State Historic Preservation Officer (“**SHPO**”) check sheet based on Consultant’s field observations of the Project site. Consultant shall sign and assemble the checklist and check sheet, along with supporting documentation, and acquire property owner signatures for submittal to regulatory agencies. The FCC NEPA includes FCC-mandated tribal consultation/notifications and archaeological review. If findings require advanced tribal and archeological studies then Task 18 and/or Task 19 shall be authorized.

Deliverables:

1. NEPA Checklist – original signed checklist (hard copy), electronic copy in Adobe Acrobat (.pdf) format.
2. SHPO Check Sheet – original signed check sheet (hard copy); electronic copy in Adobe Acrobat (.pdf) format.

Task 18. Archaeological Site Survey and Report

Consultant shall perform advanced archaeological studies, reporting and clearance work if determine to be necessary under Task 17.

Deliverables: Additional Archaeological Site Report – electronic copy in Adobe Acrobat (.pdf) format.

Task 19. Tribal Consultation

Consultant shall perform advanced tribal studies and notification/consultation if determine to be necessary under Task 17.

Deliverables: Additional Tribal Study– electronic copy in Adobe Acrobat (.pdf) format.

Task 20. Foundation Structural Design for Equipment Slabs, Generators and Propane Tanks

Consultant shall perform structural analysis and prepare structural calculations for onsite generator, fuel tank and equipment slab foundations, including anchor calculations, where needed. Consultant shall prepare structural details for inclusion in the deliverables of **Task 5**. All work shall conform to the Oregon Specialty Structures Code and shall be stamped by the EOR.

Deliverables:

1. Stamped Construction Plans and Specifications – original stamped plot (hard copy); scanned electronic copy in Adobe Acrobat (.pdf) format; CADD file in AutoCAD (.dwg) format.
2. Structural Calculations – original stamped calculations (hard copy); electronic scanned copy in Adobe Acrobat (.pdf) format.

Task 21. Prefabricated Radio Shelter

Work under this task may be added by amendment.

Task 22. Miscellaneous Equipment Structural Design

Consultant shall provide structural design for miscellaneous items such as bollards, fence posts, equipment racks and various ice shields, where needed. Consultant shall prepare structural details

for inclusion in the deliverables of Task 5. All work shall conform to the Oregon Specialty Structures Code and shall be stamped by the EOR.

Deliverables: Stamped Construction Plans and Specifications – original stamped plot (hard copy); scanned electronic copy in Adobe Acrobat (.pdf) format; CADD file in AutoCAD (.dwg) format.

Task 23. Drone Services (Tower Mapping/Inventory)

Consultant shall collect aerial drone footage of the Project site, including detailed inventory and identification of equipment mounted to the tower and other inaccessible site locations. The data collected shall be suitable for use in completing Task 24.

Deliverables:

1. Video File (native file format)
2. Tower Inventory – electronic copy in Adobe Acrobat (.pdf) format.

Task 24. Structural Analysis of Existing Tower

Consultant shall perform structural analysis of the existing tower to assess the capacity of the tower to support existing and proposed future loading. Consultant shall report its findings in a Tower Load Rating Report. The analysis and report shall conform to the Oregon Specialty Structures Code (TIA revision G) and shall report a calculated rating factor for each controlling member for each code-specified loading condition.

Conditions / Assumptions:

1. If available, Owner shall obtain design drawings and original structural calculations for the existing tower from the tower owner or tower manufacturer.
2. If available, Owner shall provide the geotechnical report and design recommendations utilized for the original tower design.
3. Owner to provide proposed RF antenna/appurtenance loading.
4. If available, Owner shall provide the existing RF tower loading or current tower inventory or tower mapping.
5. Loading shall be calculated based on the equipment manufacturers' published data sheets.
6. Owner shall provide the most recent zoning and/or construction permit drawings for sites located within Marion County. Consultant shall obtain such documents for sites located outside of Marion County.
7. The cost of services under this task are categorized based on the subtasks listed below.
8. Assume tower "Passes" structurally without modification. Design of structural modification of existing towers is excluded.

Deliverables: Tower Structural Analysis Report – original stamped report (hard copy); scanned electronic copy in Adobe Acrobat (.pdf) format.

Subtask 24.1 Conventional Monopole Tower

Subtask 24.2 Conventional Lattice Tower up to 175' Tall

Subtask 24.3 Conventional Lattice Tower greater than 175' Tall up to 300' Tall

Subtask 24.4 Conventional Lattice Tower greater than 300' Tall

Subtask 24.5 Conventional Pipe Mount

Subtask 24.6 Conventional Wall Mount / Tripod / Antenna Frame

Subtask 24.7 Rooftop Antenna Frame

Task 25. Tower Foundation Design

Consultant shall design the structural foundation for new towers, including stamped calculations and construction plans. All work under this task shall conform to the Oregon Specialty Structures Code (TIA revision G).

Deliverables:

1. Stamped Construction Plans and Specifications – original stamped plot (hard copy); scanned copy in Adobe Acrobat (.pdf) format; CADD file in AutoCAD (.dwg) format.
2. Stamped Calculations – original stamped plot (hard copy); scanned copy in Adobe Acrobat (.pdf) format.

Task 26. Land Use Permitting

Consultant shall prepare a land use permit application with required supporting documents to the jurisdictional agency applicable to the Project site. Deliverables shall conform to jurisdictional agency standards.

Conditions / Assumptions:

1. Owner shall obtain all required signatures and landowner approvals for the land use permit application.
2. Owner shall pay all permit fees.
3. Work performed under this task shall be on a Time and Material basis.

Deliverables: Land Use Permit Application – original electronic copy (native file format).

Task 27. Building Permitting

Consultant shall prepare and submit all building permit applications needed for the Project site. Including all supporting permit application documents, Deliverables shall conform to jurisdictional agency standards.

Conditions / Assumptions:

1. Consultant shall sign building permit applications as the Owner's authorized representative.
2. Consultant shall pay building permit fees and such fees shall be subject to a 10% Consultant mark-up.

Deliverables: Building Permit Application – electronic copy in Adobe Acrobat (.pdf) format.

Task 28. Topographic Survey

Consultant shall perform a topographic recovery survey of the Project site. Consultant shall call for utility locates, where required, and recover utility markings. Relevant field data shall be incorporated into the deliverables of Task 5. All Work under this task shall be performed by or under the supervision of a Professional Land Surveyor.

Deliverables:

1. Survey – original survey file in AutoCAD (.dwg) format.

Task 29. Additional Survey Services

Consultant shall prepare a 1A letter for use by Owner to obtain FCC licensing of the Project site, locate and recover private utilities on the Project site (if present), acquire a title report for the underlying property, and generate legal description(s) and exhibit map(s) of the Project site and access road for use in the acquisition of easements by Owner. Consultant shall monument such easement boundaries and file the resulting survey with the County Surveyor. All Work under this task shall be performed by or under the supervision of a Professional Land Surveyor.

Conditions / Assumptions: Owner shall pay all survey filing fees.

Deliverables:

1. Stamped Legal Description and Exhibit Map – original stamped copy (hard copy); scanned electronic copy in Adobe Acrobat (.pdf) format.
2. Survey – scanned copy of stamped survey in Adobe Acrobat (.pdf) format; original survey file in AutoCAD (.dwg) format.

Task 30. Construction Survey

Consultant shall stake the Project site perimeter, set temporary points of construction control, and stake the perimeter of primary construction features to assist the construction contractor with layout and construction of the Project.

Deliverables: None.

Task 31. NIER Letter

Consultant shall prepare a stamped letter documenting compliance with FCC's Non-Ionizing Electromagnetic Radiation (NIER) safety standards for use by Owner to obtain FCC licensure of the Project site. The NIER analysis and letter shall conform to FCC OET Bulletin 64.

Conditions / Assumptions: Analysis shall use antenna manufacturers' published data sheets. RF design to be provided to Consultant.

Deliverables: Stamped NIER Letter – original stamped letter (hard copy); scanned electronic copy in Adobe Acrobat (.pdf) format.

Task 32. Solar Power Design

Consultant shall design and prepare construction documents for a solar power array system for the House Mountain radio site, including solar panels, support structure, inverters, grounding system and, if necessary, battery power storage system. The system shall be designed for high elevation, heavy snow conditions.

Conditions / Assumptions:

1. Solar array and storage system are assumed to be expandable up to 15KW and consist of approximately forty (40) 350W panels.
2. Batteries are assumed to consist of lithium-ion batteries, or similar.

Deliverables:

1. Stamped Construction Plans and Specifications – original stamped plot (hard copy); scanned electronic copy in Adobe Acrobat (.pdf) format.
2. Electrical Calculations - original stamped print (hard copy); scanned electronic copy in Adobe Acrobat (.pdf) format; CADD file in AutoCAD (.dwg) format.

Task 33. Construction Management Services

Work under this task may be added by amendment.

**MARION COUNTY
STANDARD PROFESSIONAL SERVICES CONTRACT**

EXHIBIT B - CONSULTANT COMPENSATION

B.1 BASIS OF COMPENSATION

B.1.01 Owner shall compensate Consultant for the performance of Services set forth in **Exhibit A**, as follows:

The maximum, not to exceed total amount payable under this Contract is **\$768,675.00** for the combination of Authorized and Contingency Services.

Consultant shall perform the Authorized Services for a maximum, not-to-exceed price of **\$638,250.00**.

Upon the issuance of written authorization by Owner, Consultant shall perform specified Contingency tasks. Consultant shall perform no work nor incur any compensable costs associated with any Contingency task prior to the issuance of written authorization by Owner. The total Contingency allowance shall not exceed **\$130,425.00**, unless otherwise amended.

No separate payment shall be provided for expenses such as travel, mileage, per diem, printer or photocopy services.

Authorized Tasks, Contingency Tasks, Reserved Tasks and maximum task fees are stated in **EXHIBIT B.1, TASK AUTHORIZATIONS**.

B.1.02 Payments for Services shall be made monthly, following Owner's review and approval of detailed invoices submitted by Consultant and acceptance of the Services by Owner. Payment for all Services performed shall not exceed the amounts indicated in **EXHIBIT B.1, TASK AUTHORIZATIONS**. Owner shall make payments only after Owner's receipt and approval of (i) Consultant's detailed monthly invoice as described in Section B.1.07, and (ii) all reports, designs, certificates, and documents covered by the invoice. Payments are subject to the provisions of ORS 293.462.

B.1.03 All Contingency Services, while included in the above-stated maximum not to exceed amount, are considered Services to be provided on an "as needed" basis and will be performed only if authorized by Owner in writing. The authorization of the Contingency Services is not restricted by the Authorized Services schedule.

B.1.04 Consultant shall not submit invoices for, and Owner will not pay, any amount in excess of the maximum, not to exceed amount payable under this Contract set forth in Section B.1.01. If this amount is increased by Contract amendment, the amendment must be effective before Consultant performs Services subject to the amendment.

B.1.05 Consultant shall submit monthly invoices for Services performed. To be processed for payment by Owner, the invoices shall include the following basic information:

- a. The name of Owner's authorized representative
- b. Invoice date
- c. Date range during which the Services being invoiced for were provided
- d. The last invoice submitted on the Project must be clearly labeled "Final Invoice"

- e. Original Contract total, not to exceed amount broken out by: Authorized Services and Contingency Services authorized by Owner
- f. Statement of changes to the original total, not to exceed amount by amendment(s) and broken out in the same way as in item E, showing the revised Contract amounts
- g. Paid to date amounts showing the amounts submitted for prior to the current invoice (regardless of payment status) and broken out the same way as in item E
- h. Amounts being invoiced for in the current invoice and broken out the same way as in item E, with a roll up of a "Total Amount Billed For This Invoice" line-item amount
- i. Balances Remaining after receipt of payment for the current invoice broken out the same way as in item E

Consultant shall send invoices to Owner's Representative identified in this Contract, using the following address:

Marion County Public Works
Attn: Brian Nicholas
5155 Silverton Road NE, Building 1
Salem, OR 97321

Consultant shall not indicate or invoice for any past due amounts in the current invoice. All such notifications of a past due amount must be handled by a separate Statement of Account.

Owner shall have the right to reject any invoice which does not have the proper information as required by this section without incurring penalty liabilities for late payment.

B.1.06 Owner and Consultant agree in accordance with the terms and conditions of this Contract that:

- a. If the scope of the Project or the Services are changed materially, Consultant shall request in writing an amendment to the Contract before additional Services are provided and before compensation is adjusted. All legally required approvals must be obtained for any Contract amendment before the amendment is effective and before Services may be performed or payment made under the amendment.
- b. Consultant's fee for preparing routine change orders adding or deleting Services from the Project shall be included in the maximum not-to-exceed amount for Authorized Services stated in Section B.1.01.
- c. Upon Owner's request and without additional compensation, Consultant shall make such revisions to completed Contract Documents as are necessary to correct errors or omissions appearing therein, in accordance with the standard of care described in Section 2.1.1 of Consultant's Responsibilities; Representations and Warranties.

**MARION COUNTY
STANDARD PROFESSIONAL SERVICES CONTRACT
EXHIBIT B.1 - TASK AUTHORIZATIONS**

Task #	Task	Cascades #1	Crooked Finger	Crosby	Eagle Crest	Eastview Lane	Halls Ridge	House Mountain	Mad Creek	MC Courthouse	MCPW	McCully Mountain	METCOM 911	North Fork #1	North Fork #2	Parrett Mountain	SCC	Santiam Hospital	Silver Falls	Lower Prospect	Upper Prospect	Wipperf	Whitewater
1	Site Visit, Data Collection and Point Cloud Capture	Reserved	Authorized \$3,100	Authorized \$3,100	Authorized \$3,100	Authorized \$3,100	Authorized \$3,100	Authorized \$3,100	Authorized \$3,100	Reserved	Authorized \$3,100	Authorized \$3,100	Authorized \$3,100	Reserved	Reserved	Authorized \$3,100	Authorized \$3,100	Reserved	Authorized \$3,100	Authorized \$3,100	Contingency \$3,100	Authorized \$3,100	Reserved
2	Site Sketch	Reserved	Authorized \$1,400	Authorized \$1,400	Authorized \$1,400	Authorized \$1,400	Authorized \$1,400	Authorized \$1,400	Authorized \$1,400	Reserved	Authorized \$1,400	Authorized \$1,400	Authorized \$1,400	Reserved	Reserved	Authorized \$1,400	Authorized \$1,400	Reserved	Authorized \$1,400	Authorized \$1,400	Contingency \$1,400	Authorized \$1,400	Reserved
3	Zoning Analysis Report	Reserved	Authorized \$1,500	Authorized \$1,500	Authorized \$1,500	Authorized \$1,500	Authorized \$1,500	Authorized \$1,500	Authorized \$1,500	Reserved	Authorized \$1,500	Authorized \$1,500	Authorized \$1,500	Reserved	Reserved	Authorized \$1,500	Authorized \$1,500	Reserved	Authorized \$1,500	Authorized \$1,500	Contingency \$1,500	Authorized \$1,500	Reserved
4	Zoning / Land Use Documents	Reserved	Authorized \$4,000	Authorized \$4,000	Authorized \$4,000	Authorized \$4,000	Authorized \$4,000	Authorized \$4,000	Authorized \$4,000	Reserved	Authorized \$4,000	Authorized \$4,000	Authorized \$4,000	Reserved	Reserved	Authorized \$4,000	Authorized \$4,000	Reserved	Authorized \$4,000	Authorized \$4,000	Contingency \$4,000	Authorized \$4,000	Reserved
5	Construction Documents	Reserved								Reserved				Reserved	Reserved			Reserved					Reserved
6	Grading and Erosion Control Plans	Reserved	Authorized \$2,750			Authorized \$2,750	Reserved	Authorized \$2,750	Authorized \$2,750	Reserved		Authorized \$4,750		Reserved	Reserved			Reserved	Authorized \$2,750	Authorized \$2,750		Authorized \$2,750	Reserved
7	Stormwater Report	Reserved	Authorized \$2,000					Authorized \$2,000		Reserved		Authorized \$2,750		Reserved	Reserved			Reserved					Reserved
8	Utility Coordination	Reserved	Authorized \$1,600						Authorized \$1,600	Reserved				Reserved	Reserved			Reserved	Authorized \$1,600				Reserved
9	Grounding Plan	Reserved	Authorized \$2,300	Authorized \$2,300		Authorized \$2,300		Authorized \$2,300	Authorized \$2,300	Reserved	Authorized \$2,300	Authorized \$1,600	Authorized \$2,300	Reserved	Reserved		Authorized \$2,300	Reserved	Authorized \$2,300	Authorized \$2,300		Authorized \$2,300	Reserved
10	Visual Impact Study	Reserved								Reserved		Authorized \$2,300		Reserved	Reserved			Reserved					Reserved
11	Meetings	Reserved	Authorized \$1,500	Authorized \$1,500	Authorized \$1,500	Authorized \$1,500	Authorized \$1,500	Authorized \$1,500	Authorized \$1,500	Reserved	Authorized \$1,500		Authorized \$1,500	Reserved	Reserved	Authorized \$1,500	Authorized \$1,500	Reserved	Authorized \$1,500	Authorized \$1,500	Contingency \$1,500	Authorized \$1,500	Reserved
12	Construction Administration	Reserved	Authorized \$2,500	Authorized \$2,500	Authorized \$1,500	Authorized \$2,500	Authorized \$1,500	Authorized \$2,500	Authorized \$2,500	Reserved	Authorized \$1,500	Authorized \$1,500	Authorized \$1,500	Reserved	Reserved	Authorized \$1,500	Authorized \$1,500	Reserved	Authorized \$2,500	Authorized \$2,500	Contingency \$1,500	Authorized \$2,500	Reserved
13	Engineering Project Management and Coordination	Reserved	Authorized \$5,500	Authorized \$5,500	Authorized \$3,500	Authorized \$5,500	Authorized \$3,500	Authorized \$5,500	Authorized \$5,500	Reserved	Authorized \$5,500	Authorized \$2,500	Authorized \$5,500	Reserved	Reserved	Authorized \$3,500	Authorized \$3,500	Reserved	Authorized \$5,500	Authorized \$5,500	Contingency \$3,500	Authorized \$5,500	Reserved
14	Geotechnical Investigation and Report	Reserved	Authorized \$8,500					Authorized \$8,500		Reserved		Authorized \$5,500		Reserved	Reserved			Reserved				Authorized \$8,500	Reserved
15	Geotechnical Seismic Analysis	Reserved	Authorized \$3,500					Authorized \$3,500		Reserved				Reserved	Reserved			Reserved				Authorized \$3,500	Reserved
16	Soil Resistivity Testing	Reserved	Authorized \$950	Reserved	Reserved	Reserved	Reserved	Authorized \$950	Reserved	Reserved	Reserved		Reserved	Reserved	Reserved	Reserved	Reserved	Reserved	Reserved		Reserved	Authorized \$950	Reserved
17	NEPA FCC Checklist	Reserved	Authorized \$12,500					Authorized \$12,500		Reserved		Reserved		Reserved	Reserved			Reserved		Authorized \$12,500		Authorized \$12,500	Reserved
18	Archaeological Site Survey and Report	Reserved	Authorized \$0					Authorized \$0		Reserved				Reserved	Reserved			Reserved		Authorized \$0		Authorized \$0	Reserved
19	Tribal Consultation	Reserved	Authorized \$0					Authorized \$0		Reserved				Reserved	Reserved			Reserved		Authorized \$0		Authorized \$0	Reserved
20	Foundation Structural Design for Equipment Slabs, Generators and Propane Tanks	Reserved	Authorized \$5,500			Authorized \$2,500		Authorized \$5,500	Authorized \$5,500	Reserved	Authorized \$2,500			Reserved	Reserved			Reserved	Authorized \$5,500	Authorized \$2,750		Authorized \$2,750	Reserved
21	Prefabricated Radio Shelter	Reserved								Reserved		Contingency \$5,500		Reserved	Reserved			Reserved					Reserved
22	Misc. Equipment Structural Design	Reserved	Contingency \$2,000	Contingency \$2,000	Contingency \$1,000	Contingency \$2,000	Contingency \$1,000	Contingency \$2,000	Contingency \$2,000	Reserved	Contingency \$2,000		Contingency \$1,000	Reserved	Reserved	Contingency \$1,000	Contingency \$1,000	Reserved	Contingency \$2,000	Contingency \$2,000	Contingency \$1,000	Contingency \$2,000	Reserved
23	Drone Services (Tower Mapping/Inventory)	Reserved								Reserved		Contingency \$2,000		Reserved	Reserved			Reserved					Reserved

Task #	Task	Cascades #1	Crooked Finger	Crosby	Eagle Crest	Eastview Lane	Halls Ridge	House Mountain	Mad Creek	MC Courthouse	MCPW	McCully Mountain	METCOM 911	North Fork #1	North Fork #2	Parrett Mountain	SCC	Santiam Hospital	Silver Falls	Lower Prospect	Upper Prospect	Wipperf	Whitewater
24	Structural Analysis of Existing Tower	Reserved	Reserved				Reserved	Reserved	Reserved	Reserved	Reserved	Reserved	Reserved	Reserved	Reserved	Reserved	Reserved	Reserved	Reserved		Reserved		Reserved
	24.1 Monopole					Authorized \$3,250	Authorized \$3,250			Reserved	Authorized \$3,250	Reserved	Authorized \$3,250	Reserved	Reserved	Authorized \$3,250		Reserved	Authorized \$3,250				Reserved
	24.2 Lattice up to 175'			Authorized \$3,450						Reserved				Reserved	Reserved		Authorized \$3,450	Reserved					Reserved
	24.3 Lattice between 175' and 300'								Authorized \$3,750	Reserved				Reserved	Reserved			Reserved			Contingency \$3,750		Reserved
	24.4 Lattice over 300'									Reserved		Authorized \$3,750		Reserved	Reserved			Reserved					Reserved
	24.5 Pipe Mount			Authorized \$1,675		Authorized \$1,675	Authorized \$1,675		Authorized \$1,675	Reserved	Authorized \$1,675		Authorized \$1,675	Reserved	Reserved	Authorized \$1,675	Authorized \$1,675	Reserved	Authorized \$1,675		Contingency \$1,675		Reserved
	24.6 Wall Mounts/Tripod/Antenna Frame									Reserved		Authorized \$1,675		Reserved	Reserved			Reserved					Reserved
	24.7 Rooftop Antenna Frame									Reserved				Reserved	Reserved			Reserved					Reserved
25	Tower Foundation Design	Reserved	Reserved					Reserved		Reserved				Reserved	Reserved			Reserved					Reserved
26	Land use Permitting (T&M)	Reserved	Authorized \$8,250	Contingency \$1,000	Contingency \$1,000	Contingency \$1,000	Contingency \$2,500	Authorized \$8,250	Contingency \$1,000	Reserved	Contingency \$1,000		Contingency \$1,000	Reserved	Reserved	Contingency \$2,500	Contingency \$1,000	Reserved	Authorized \$4,500	Authorized \$8,250	Contingency \$1,000	Authorized \$8,250	Reserved
27	Building Permitting	Reserved	Authorized \$2,500	Authorized \$1,000	Authorized \$1,000	Authorized \$1,000	Authorized \$2,500	Authorized \$2,500	Authorized \$1,000	Reserved	Authorized \$1,000	Authorized \$4,500	Authorized \$1,000	Reserved	Reserved	Authorized \$2,500	Authorized \$1,000	Reserved	Authorized \$2,500	Authorized \$2,500	Contingency \$1,000	Authorized \$2,500	Reserved
28	Topographic Survey	Reserved	Authorized \$8,500					Authorized \$8,500	Authorized \$8,500	Reserved	Reserved	Authorized \$2,500		Reserved	Reserved			Reserved	Authorized \$8,500	Authorized \$8,500		Authorized \$8,500	Reserved
29	Additional Survey Services	Reserved	Contingency \$2,500					Contingency \$2,500	Contingency \$2,500	Reserved		Contingency \$8,500		Reserved	Reserved			Reserved	Contingency \$2,500	Contingency \$1,500		Contingency \$2,500	Reserved
30	Construction Survey	Reserved	Contingency \$3,000					Contingency \$3,000	Contingency \$3,000	Reserved		Contingency \$2,500		Reserved	Reserved			Reserved	Contingency \$3,000	Contingency \$3,000		Contingency \$3,000	Reserved
31	NIER Letter	Reserved	Reserved	Reserved	Reserved	Reserved	Reserved	Reserved	Reserved			Authorized \$3,000	Reserved	Reserved	Reserved	Reserved	Reserved	Reserved	Reserved	Reserved	Reserved	Reserved	Reserved
32	Solar Power Design	Reserved						Contingency \$19,000		Reserved				Reserved	Reserved			Reserved					Reserved
33	Construction Management Services	Reserved	Reserved	Reserved	Reserved	Reserved	Reserved	Reserved	Reserved	Reserved	Reserved	Reserved	Reserved	Reserved	Reserved	Reserved	Reserved	Reserved	Reserved	Reserved	Reserved	Reserved	Reserved
	Total Authorized	\$0	\$78,350	\$27,925	\$17,500	\$32,975	\$23,925	\$76,750	\$46,575	\$0	\$29,225	\$46,325	\$26,725	\$0	\$0	\$23,925	\$24,925	\$0	\$52,075	\$59,050	\$0	\$72,000	\$0
	Total Contingency	\$0	\$7,500	\$3,000	\$2,000	\$3,000	\$3,500	\$26,500	\$8,500	\$0	\$3,000	\$18,500	\$2,000	\$0	\$0	\$3,500	\$2,000	\$0	\$7,500	\$7,500	\$24,925	\$7,500	\$0

MARION COUNTY STANDARD PROFESSIONAL SERVICES CONTRACT

EXHIBIT C - INSURANCE PROVISIONS

A. **REQUIRED INSURANCE.** Contractor shall obtain at Contractor's expense the insurance specified in this section prior to performing under this Contract and shall maintain it in full force and at its own expense throughout the duration of this Contract and all warranty periods. Contractor shall obtain the following insurance from insurance companies or entities that are authorized to transact the business of insurance and issue coverage in Oregon and that are acceptable to County:

i. **WORKERS COMPENSATION.** All employers, including Contractor, that employ subject workers, as defined in ORS 656.027, shall comply with ORS 656.017 and shall provide workers' compensation insurance coverage for those workers, unless they meet the requirement for an exemption under ORS 656.126(2). Contractor shall require and ensure that each of its subcontractors complies with these requirements.

ii. **PROFESSIONAL LIABILITY.** Covering any damages caused by an error, omission or any negligent acts related to the services to be provided under this Contract. Contractor shall provide proof of insurance of not less than the following amounts as determined by the County:

☒ **Required by County** ☐ **Not required by County.**

- ☒ \$1,000,000 Per occurrence limit for any single claimant; and
- ☒ \$2,000,000 Per occurrence limit for multiple claimants
- ☐ Exclusion Approved by Risk Manager

iii. **CYBER LIABILITY.** Covering network security, breach of data, and coverage for regulatory fines and fees imposed against County due to failures in products and services provided under this Contract. Cyber Liability coverage must include errors, omissions, negligent acts, denial of service, media liability (including software copyright), dishonesty, fraudulent or criminal acts by a person or persons whether identified or not, intellectual property infringement, computer system attacks, unauthorized access and use of computer system, regulatory actions, and contractual liability.

☐ **Required by County** ☒ **Not required by County.**

- ☐ \$2,000,000 Per occurrence limit for any single claimant; and
- ☐ \$5,000,000 Per occurrence limit for multiple claimants
- ☐ Exclusion Approved by Information Technology Director and Risk Manager

iv. **COMMERCIAL GENERAL LIABILITY.** Covering bodily injury, death, and property damage in a form and with coverages that are satisfactory to the County. This insurance shall include personal injury liability, products and completed operations. Coverage shall be written on an occurrence basis. Contractor shall provide proof of insurance of not less than the following amounts as determined by the County:

☒ **Required by County** ☐ **Not required by County.**

Minimum Limits:

- ☒ \$1,000,000 Per occurrence limit for any single claimant; and
- ☒ \$2,000,000 Per occurrence limit for multiple claimants
- ☐ Exclusion Approved by Risk Manager

- ☐ \$500,000 Per occurrence limit for any single claimant
☐ \$1,000,000 Per occurrence limit for multiple claimant

v. AUTOMOBILE LIABILITY INSURANCE. Covering all owned, non-owned, or hired vehicles. This coverage may be written in combination with the Commercial General Liability Insurance (with separate limits for "Commercial General Liability" and "Automobile Liability"). Contractor shall provide proof of insurance of not less than the following amounts as determined by the County:

☒ Required by County ☐ Not required by County.

Minimum Limits:

- ☐ Oregon Financial Responsibility Law, ORS 806.060 (\$25,000 property damage/\$50,000 bodily injury \$5,000 personal injury).
☒ \$500,000 Per occurrence limit for any single claimant; and
☒ \$1,000,000 Per occurrence limit for multiple claimants
☐ Exclusion Approved by Risk Manager

B. ADDITIONAL INSURED. The Commercial General Liability insurance required under this Contract shall include Marion County, its officers, employees, and agents as Additional Insureds but only with respect to Contractor's activities to be performed under this Contract. Coverage shall be primary and non-contributory with any other insurance and self-insurance.

C. NOTICE OF CANCELLATION OR CHANGE. There shall be no cancellation, material change, potential exhaustion of aggregate limits or non-renewal of insurance coverage(s) without 30 days written notice from this Contractor or its insurer(s) to County. Any failure to comply with the reporting provisions of this clause shall constitute a material breach of Contract and shall be grounds for immediate termination of this Contract by County.

D. CERTIFICATE(S) OF INSURANCE. Contractor shall provide to County Certificate(s) of Insurance for all required insurance before delivering any Goods and performing any Services required under this Contract. The Certificate(s) must specify all entities and individuals who are endorsed on the policy as Additional Insured (or Loss Payees). Contractor shall pay for all deductibles, self-insured retention, and self-insurance, if any.

**MARION COUNTY
STANDARD PROFESSIONAL SERVICES CONTRACT**

EXHIBIT D - SPECIAL CONTRACT PROVISIONS

D.1 RESPONSIBILITIES OF OWNER

- D.1.01 Owner's Project budget shall include contingencies for design, bidding, changes in the Work during construction, and other costs described below.
- D.1.02 Owner, at Owner's sole option, may retain an inspector to inspect the Project to protect Owner's interests. The costs of an inspector shall be borne by Owner and the inspector shall serve at the pleasure of Owner. When retained by Owner, the inspector's duties are not to be interpreted as conflicting with the duties of Consultant or relieving Consultant of any responsibility or duty incurred under this Contract, nor may the inspector act as Consultant's agent.
- D.1.03 Owner shall furnish to Consultant record documents regarding all relevant Project sites and facilities under Owner's jurisdiction.
- D.1.04 Except where otherwise stated in **Exhibit A**, Owner shall be responsible for payment of all plan check fees, review fees, permit fees, taxes, development charges, or any other costs related to obtaining governing bodies' approval for construction of the Project.

D.2 CONSULTANT RESPONSIBILITIES

- D.2.01 Consultant shall prepare a schedule of its activities through all phases of the Project. Consultant shall schedule and prepare agendas for all meetings which involve Consultant's Services. Consultant shall chair such meetings and shall record and distribute minutes, in a format and level of detail acceptable to Owner, of decisions and actions to attendees.
- D.2.02 Consultant shall confirm firsthand, through site investigations of the observable circumstances and existing conditions, the critical issues that may impact design criteria and shall not rely solely on furnished As Built documents. Consultant shall be liable, at Owner's discretion, for any cost change impacts as a result of using inaccurate As Built drawings which, if used solely for the design process without confirmation, create conflicts on site.
- D.2.03 Consultant shall take reasonable care to provide engineered solutions that suit Owner's budget limitations using decision methodologies within Consultant's control.

**MARION COUNTY
STANDARD PROFESSIONAL SERVICES CONTRACT
EXHIBIT E - CRITICAL DATE SCHEDULE**

Task 5. Construction Documents Complete	January 31, 2025
Task 17. NEPA FCC Checklist Complete	November 30, 2024
Task 26. Land Use Permitting Complete	November 30, 2024
Task 27. Building Permitting Complete	March 31, 2025

MARION COUNTY STANDARD PROFESSIONAL SERVICES CONTRACT

EXHIBIT F - RATE SCHEDULE

Description	Standard Fee
Site Visit, Data Collection and Point Cloud Capture	\$3,100
Site Sketch	\$1,400
Zoning Analysis Report	\$1,500
Zoning / Land Use Documents	\$4,000
Construction Documents	\$4,750
Grading and Erosion Control Plans	\$2,750
Stormwater Report	\$2,000
Utility Coordination	\$1,600
Grounding Plan	\$2,300
Visual Impact Study	\$3,800
Meetings	\$1,500
Construction Administration	\$2,500
Project Management	\$5,500
Geotechnical Investigation and Report	\$8,500
Geotechnical Seismic Analysis	\$3,500
Soil Resistivity Testing	\$950
NEPA FCC Checklist	\$12,500
Archaeological Site Survey and Report	\$2,750
Tribal Consultation	\$2,750
Foundation Structural Design for Equipment Slabs, Generators and Propane Tanks	\$5,500
Misc. Equipment Structural Design	\$2,000
Drone Services (Tower Mapping/Inventory)	\$5,500
Structural Analysis of Existing Tower	\$6,000
Monopole	\$3,250
Lattice up to 175'	\$3,450
Lattice between 175' and 300'	\$3,750
Lattice over 300'	\$4,000
Pipe Mount	\$1,675
Wall Mounts/Tripod/Antenna Frame	\$1,750
Rooftop Antenna Frame	\$1,850
Tower Foundation Design	\$3,500
Land use Permitting (T&M)	\$8,250
Building Permitting	\$2,500
Topographic Survey	\$8,500
Additional Survey Services	\$2,500
Construction Survey	\$3,000
NIER Letter	\$2,300

**MARION COUNTY
STANDARD PROFESSIONAL SERVICES CONTRACT
EXHIBIT G - ASSUMPTIONS AND EXCLUSIONS**

G.1 Scope of Services

- G1.1.01 Construction Specifications provided by Consultant will consist of project-specific construction notes stated on the construction plans. No separate volume of construction specifications will be provided.

MARION COUNTY STANDARD PROFESSIONAL SERVICES CONTRACT

EXHIBIT H: APPENDIX II TO PART 200—CONTRACT PROVISIONS FOR NON-FEDERAL ENTITY CONTRACTS UNDER FEDERAL AWARDS

In addition to other provisions required by the Federal agency or non-Federal entity, all contracts made by the non-Federal entity under the Federal award must contain provisions covering the following, as applicable.

(A) Contracts for more than the simplified acquisition threshold, which is the inflation adjusted amount determined by the Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (Councils) as authorized by 41 U.S.C. 1908, must address administrative, contractual, or legal remedies in instances where contractors violate or breach contract terms, and provide for such sanctions and penalties as appropriate.

(B) All contracts in excess of \$10,000 must address termination for cause and for convenience by the non-Federal entity including the manner by which it will be effected and the basis for settlement.

(C) Equal Employment Opportunity. Except as otherwise provided under 41 CFR Part 60, all contracts that meet the definition of "federally assisted construction contract" in 41 CFR Part 60-1.3 must include the equal opportunity clause provided under 41 CFR 60-1.4(b), in accordance with Executive Order 11246, "Equal Employment Opportunity" (30 FR 12319, 12935, 3 CFR Part, 1964-1965 Comp., p. 339), as amended by Executive Order 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," and implementing regulations at 41 CFR part 60, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor."

(D) Davis-Bacon Act, as amended (40 U.S.C. 3141-3148). When required by Federal program legislation, all prime construction contracts in excess of \$2,000 awarded by non-Federal entities must include a provision for compliance with the Davis-Bacon Act (40 U.S.C. 3141-3144, and 3146-3148) as supplemented by Department of Labor regulations (29 CFR Part 5, "Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction"). In accordance with the statute, contractors must be required to pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor. In addition, contractors must be required to pay wages not less than once a week. The non-Federal entity must place a copy of the current prevailing wage determination issued by the Department of Labor in each solicitation. The decision to award a contract or subcontract must be conditioned upon the acceptance of the wage determination. The non-Federal entity must report all suspected or reported violations to the Federal awarding agency. The contracts must also include a provision for compliance with the Copeland "Anti-Kickback" Act (40 U.S.C. 3145), as supplemented by Department of Labor regulations (29 CFR Part 3, "Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States"). The Act provides that each contractor or subrecipient must be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he or she is otherwise entitled. The non-Federal entity must report all suspected or reported violations to the Federal awarding agency.

(E) Contract Work Hours and Safety Standards Act (40 U.S.C. 3701-3708). Where applicable, all contracts awarded by the non-Federal entity in excess of \$100,000 that involve the employment of mechanics or laborers must include a provision for compliance with 40 U.S.C. 3702 and 3704, as supplemented by Department of Labor regulations (29 CFR Part 5). Under 40 U.S.C. 3702 of the Act, each contractor must be required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of 40 hours in the work week. The requirements of 40 U.S.C. 3704 are applicable to construction work and provide that no laborer or mechanic must be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. These

requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.

(F) Rights to Inventions Made Under a Contract or Agreement. If the Federal award meets the definition of "funding agreement" under 37 CFR § 401.2 (a) and the recipient or subrecipient wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of experimental, developmental, or research work under that "funding agreement," the recipient or subrecipient must comply with the requirements of 37 CFR Part 401, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," and any implementing regulations issued by the awarding agency.

(G) Clean Air Act (42 U.S.C. 7401-7671q.) and the Federal Water Pollution Control Act (33 U.S.C. 1251-1387), as amended - Contracts and subgrants of amounts in excess of \$150,000 must contain a provision that requires the non-Federal award to agree to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401-7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251-1387). Violations must be reported to the Federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA).

(H) Debarment and Suspension (Executive Orders 12549 and 12689) - A contract award (see 2 CFR 180.220) must not be made to parties listed on the governmentwide exclusions in the System for Award Management (SAM), in accordance with the OMB guidelines at 2 CFR 180 that implement Executive Orders 12549 (3 CFR part 1986 Comp., p. 189) and 12689 (3 CFR part 1989 Comp., p. 235), "Debarment and Suspension." SAM Exclusions contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Order 12549.

(I) Byrd Anti-Lobbying Amendment (31 U.S.C. 1352) - Contractors that apply or bid for an award exceeding \$100,000 must file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier must also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the non-Federal award.

(J) See §200.322 Domestic preference for procurements.

(K) Audit Requirements of 2 CFR §200.5XX (Subpart F)

i. Subrecipient must comply, and require any subcontractor to comply, with applicable audit requirements and responsibilities set forth in this Contract and applicable state or federal law.

ii. If Subrecipient expends federal awards in excess of \$750,000 in a fiscal year, Subrecipient is subject to audit conducted in accordance with the provisions of 2 CFR part 200, subpart F. Copies of all audits must be submitted to County within 30 days of completion.

iii. Subrecipient must save, protect and hold harmless County from the cost of any audits or special investigations performed by the Secretary of State with respect to the funds expended under this Contract. Subrecipient acknowledges and agrees that any audit costs incurred by Subrecipient as a result of allegations of fraud, waste or abuse are ineligible for reimbursement under this or any other agreement between Subrecipient and County.

(L) System for Award Management. Subrecipient must comply with applicable requirements regarding the System for Award Management (SAM), currently accessible at <https://www.sam.gov>. This includes applicable requirements regarding registration with SAM, as well as maintaining current information in SAM. Subrecipient must also comply with applicable restrictions on subawards ("subgrants") to first tier subcontractors (first-tier "Subcontractors"), including restrictions on subawards to entities that do not acquire and provide (to the County) the unique entity identifier required for SAM registration.

(M) Whistleblower Protection Act. Subrecipient must comply and ensure the compliance by subcontractors, with 41U.S.C. 4712, Program for Enhancement of Employee Whistleblower Protection. Subrecipient must inform subcontractors, contractors and employees, in writing, in the predominant language of the workforce, of the employee whistleblower rights and protections under 41 USC § 4712.

(N) See § 200.216 Prohibition on certain telecommunications and video surveillance services or equipment.

(O) See § 200.323 Procurement of recovered materials.

[78 FR 78608, Dec. 26, 2013, as amended at 79 FR 75888, Dec. 19, 2014; 85 FR 49577, Aug. 13,2020]