

Bid Doc #3: PORT OF BROOKINGS HARBOR ADDENDUM TO BIDDING INSTRUCTIONS FOR DOCK PILE REPLACEMENT PROJECT

Close Date: October 2nd, 2018

Close Time: 4:00 pm (PST)

Project Name: Port of Brookings Harbor Dock Pile Replacement Project

Owner's Contact: Kathy Lindley-Hall, Port Manager
Phone: 541-469-2218; Email: kathy@portofbrookingsharbor.com.

Engineer of Record: Jack (John) Akin, MS, PE, Consulting Engineer
Office Phone: 541-474-9434; Cell Phone: 541-261-9929
Email: emc@emcengineersscientists.com

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**Bid Doc # 3 - ADDENDUM
INVITATION TO BID
Port of Brookings Harbor PORT OF BROOKINGS HARBOR – Dock Pile
Replacement Project**

As announced on August 1st, 2018, the Port of Brookings Harbor is soliciting offers for the **PORT OF BROOKINGS HARBOR – Dock Pile Replacement Project**. The Project location may be seen in the attached maps and drawings attached to the Port of Brookings Harbor Specifications and Drawings. Principal work elements are enlisted in the Bidding Instructions, Bid Sheet, Request For Proposals – **PORT OF BROOKINGS HARBOR – Dock Pile Replacement Project** and the Port of Brookings Harbor Specifications and Drawings. This is a public improvement construction project. Estimated Project cost range for bonding purposes is \$375,000 to \$600,000.

Contract documents may be seen, downloaded or obtained from the website www.emcengineersscientists.com, and thence by clicking "**PORT OF BROOKINGS HARBOR – Dock Pile Replacement Bid Documents**" and selecting the desired document, or from the office of the Port of Brookings Harbor, 16340 Lower Harbor Road, Brookings, OR 97415. Contact person at the office is Kathy Lindley-Hall, office phone 541-469-2218. Offers must be received at the Port of Brookings Harbor office, by offer closing 4:00 p.m. (PST) on October 2nd, 2018. Mailing address: Port of Brookings Harbor, 16340 Lower Harbor Road, Suite 103, Brookings, OR 97415. Submit offers as previously described in a sealed envelope marked "**PORT OF BROOKINGS HARBOR – Dock Pile Replacement Project**." Pursuant to ORS 279C.370 Bidders are required to disclose information about certain first-tier subcontractors in the offer submission envelope. Plans and Specifications may be also obtained at the office of the Port of Brookings Harbor. Electronic files will be emailed upon request.

The Bidder must comply as applicable with ORS 279C.800 through ORS 279C.870 or 40 USC 276a. Each Bidder must complete the Residency Statement, attached to the Offer Form. Bidder shall be currently registered with the Construction Contractors Board (CCB), holding the proper registration for the work contemplated herein, at the time of submittal. All Subcontractors participating in the project shall be similarly registered with the CCB at the time they propose to engage in subcontract work. The CCB registration requirements apply to all public works contracts unless superseded by federal law.

Prevailing Wage Rates for Public Works Contracts in Oregon, if required, are available on line at http://www.oregon.gov/boli/WHD/PWR/Pages/January_2014_Index.aspx.

Offers will be opened after 4:00 p.m. (PST). As afore-stated in the posted Bidding Instructions, the Port of Brookings Harbor reserves the right to reject any offer not in conformity with the offer requirements, or the right to reject all offers if it is in the best interest of the Port of Brookings Harbor.

ADDED INSTRUCTION TO BIDDERS

1. Contact Information

1.1 Owner Contact Information: Bidders may direct all questions concerning the Contract Documents in writing, no later than three (3) calendar days prior to offer opening to Port of Brookings Harbor, 16340 Lower Harbor Road, Brookings, OR 97415. Contact person at the office is Kathy Lindley-Hall, office phone (541) 469-2218, email gary@portofbrookingsharbor.com. The Port of Brookings Harbor is herein used synonymously with the term "Owner" as used throughout the bid documents.

1.2 Engineer of Record's Representative Information: Questions concerning Drawings or Specifications should be directed in writing, no later than three (3) calendar days prior to offer opening to the Engineer of Record, Jack Akin, EMC-Engineers/Scientists, LLC, 450 Conestoga Circle, Jacksonville, Oregon 97530, Office (541) 474-9434, Cell (541) 261-9929, email emc@emcengineersscientists.com.

2. General Information

2.1 Scope of Work: The work contemplated under this contract includes all labor, tools, machinery, materials, transportation, equipment and services necessary for and reasonably incidental to, the completion of all work in connection with the project described in the Contract Documents.

2.2 Preparation: Special care should be exercised in the preparations of offers. Bidders must make their own estimates of the facilities and difficulties attending the performance of the work, including local conditions, uncertainty of weather, permit conditions and all other contingencies.

2.3 Discrepancies: If a Bidder finds discrepancies in, or omissions from the plans, specifications, contract documents, or have doubt as to their meaning; the Bidder shall at once notify the Owner. The Owner will then investigate and determine if an addendum will be issued.

2.4 Prevailing Wage: The Contractor and all subcontractors shall comply with the provisions of ORS 279C.800 through 279C.870, relative to Prevailing Wage Rates, as outlined in Sections C.1, C.2, and G.2.3 of the General Conditions, if applicable.

This invitation to offer and the resulting Contract are subject to the Bureau of Labor and Industries (BOLI) wage requirements, which are incorporated by reference:

Prevailing Wage Rates, if required, for Public Works Contracts in Oregon are available on line at http://www.oregon.gov/boli/WHD/PWR/Pages/January_2014_Index.aspx.

3. Offer Preparation

3.1 Offers are Offers: The offer is the Bidder's offer to enter into a contract which, if the offer is accepted for award, binds the Bidder to a contract and the terms and conditions contained in the invitation to offer. A Bidder shall not make the offer contingent upon the Owner's acceptance of specifications or contract terms that conflict with or are in addition to those advertised in the Invitation to Offer.

3.2 Offer Form: The offer response shall be made on the form provided in the Invitation to Offer as prescribed by the Owner (Bid Sheet). The Bidder may not alter, modify or change the offer form except as directed by offer addendum. Bidders are required to use the form provided within the Contract Documents. Offers may be rejected if they contain any recapitulation or restating of the work to be done, disclaimers, exceptions or other limitations. All offers must be sealed, typewritten or prepared in ink and must be submitted on the Offer Form. No oral, telegraphic, telephone or facsimile offers will be accepted.

3.3 Addenda: The Owner reserves the right to make changes to the Invitation to Offer and the resulting contract, by written addenda, prior to the closing time and date. Addenda will be mailed or faxed to all parties on the planholders list. The Owner is not responsible for an Bidder's failure to receive notice of addenda. Addenda shall only be issued by the Owner and upon issuance are incorporated into the Contract Documents or the resulting contract. If required by addendum, Bidders shall sign and return the addendum prior to the offer closing time and date.

3.4 Examination of Plans, Specifications and Work Site: It is understood that a Bidder, before submitting its offer, had made a careful examination of all plans, specifications, and contract documents; that the Bidder is fully informed as to the quality and quantity of materials and character of work required; and that the Bidder had made a careful examination of the location and conditions of the work and the sources of supply for materials. It is further understood that an offer awarded hereunder is subject to the Owner being able to comply with all zoning ordinances or obtain rezoning of the property where necessary, and comply with local building code restrictions and conditions for the structure or structures contemplated in the offer documents, and any or all of which conditions may be contained in the contract and if such conditions are not satisfied may result in termination of the contract. The Owner will in no case be responsible for any loss of for any unanticipated costs that may be suffered by the contractor as a result of the Contractor's failure to acquire full information in advance in regard to all conditions pertaining to the work.

3.5 Construction Contractor's Board (CCB): The Bidder shall be currently registered with the CCB, holding the proper registration for the work contemplated herein, at the time of offer submittal. All subcontractors participating in the project shall be similarly registered with the CCB at the time they propose to engage in subcontract work or valid license from the Oregon State Landscape Contractor's Board, as defined by ORS 671.530. The CCB registration requirements apply to all public works contracts unless superseded by federal law.

3.6 Delinquent Oregon Taxes: No contract will be awarded to a Bidder who cannot certify they are not in any violation of Oregon tax laws. For purposes of this requirement, "Oregon Tax Laws" means those programs listed in ORS 305.380 (4) which is incorporated herein by this reference. Examples include the state inheritance tax, personal income tax, withholding tax, corporation income and excise taxes, amusement device tax, timber taxes, cigarette tax, other tobacco tax, 9-1-1 emergency communications tax, the homeowners and renters property tax relief program and local taxes administered by the Department of Revenue.

3.7 Drug Testing Program: Bidder must have a "Qualifying Employee Drug-testing Program" pursuant to ORS 279C.505.

3.8 First-Tier Subcontractor Disclosure Instructions: Pursuant to ORS 279C.370, Bidders are required to disclose information about certain first-tier subcontractors when the Owner estimates the contract value for a public improvement to be greater than \$100,000. Specifically, when the contract amount of a first-tier subcontractor furnishing labor, or labor and materials, it would be greater than or equal to: (i) 5% of the project offer, but at least \$15,000, or (ii) \$350,000 regardless of the percentage, the Bidder must disclose the following information about that subcontract in its offer submission or within two (2) working hours after offer closing:

- a) The subcontractor's name,
- b) The category of work that the subcontractor would be performing, and
- c) The dollar value of the subcontract.

If the Bidder will not be using any subcontractors that are subject to the above disclosure requirements, the Bidder is required to indicate "NONE" on the accompanying Disclosure Form. The Owner MUST reject an offer if the Bidder fails to submit the disclosure form with this information by the stated deadline. OAR 137-049-0360. An Bidder shall submit the disclosure form required by OAR 137-049-0360 either in its offer submission or within two (2) working hours after Offer Closing in the manner specified by the Invitation to Offer.

Compliance with the disclosure and submittal requirements of ORS 279C.370(2) and (3) and these instructions is a matter of responsiveness. Offers which are submitted by Offer Closing, but for which the disclosure submittal has not been made by the specified deadline, are not responsive and shall not be considered for Contract award. The Owner shall obtain, and make available for public inspection, the disclosure forms required by ORS 279C.370 and OAR 137-049-0360. The Owner shall also provide copies of disclosure forms to the Bureau of Labor and Industries as required by ORS 279C.835. The Owner is not required to determine the accuracy or completeness of the information submitted. Substitution of affected first-tier subcontractors shall be made only in accordance with ORS 279C.370.

3.9 Use of Brand or Trade Names: Any brand or trade names when used are for the purpose of establishing a basis of quality, certain machinery, equipment or kinds of materials, either by description or process or by designating a manufacturer by name and referring to its brands or product designation, or by specifying a kind of material.

It is not the intent of this contract to exclude other processes, equipment, or materials of equal quality, value, utility or merit. Whenever a process is designated or a manufacturer's name, brand or item is designated or described, it shall be understood that the words "or Equal" follow such name, designation or description, whether in fact they do so or not. For those items designated with "or Approved Equal", approval shall be obtained prior to the offer closing in accordance with Equipment, Methods or Material Substitution. Any items designated "as Required", no substitutions will be considered.

3.10 Equipment Methods or Material Substitution: When a brand name(s) is required by the specifications, all Bidders shall provide the specified product unless another product or products are approved through product substitution. Bidders may request approval in writing on company letterhead to the Engineer of Record's Representative, not less than ten (10) calendar days prior to offer closing. Each request shall contain sufficient information to determine product acceptability. A product substitution request that is not complete may not be considered. The Engineer of Record shall determine, in its sole discretion, whether an Bidder's requested substitution is "Equal". Approval of any substitute equipment, method or materials shall be issued in the form of an Addendum issued no later than seventy-two (72) hours prior to offer closing.

3.11 Bid Security: Each offer shall be accompanied by a certified or cashier's check or bid bond on the form included in the contract documents payable to the Owner in an amount equal to ten percent (10%) of the total amount offer. Bid Security shall be furnished to the Owner as security against failure of the undersigned to comply with all requirements within the time frames established subsequent to notification of award. If the undersigned fails to execute the Contract, furnish a Performance Bond and a Payment Bond, or furnish certificates of insurance, then the Owner may collect under the Bid Security.

3.12 Unit and Total Price: All designations and prices shall be fully and clearly set forth. The written offer price shall prevail over the numerical offer price.

3.13 Signature on Offer: Offers must be signed in ink by an authorized representative of the Bidder. Signature on an offer certifies that the offer is made without connection with any person, firm or corporation making an offer for the same goods and/or services and is in all respects fair and without collusion or fraud. Signature on an offer also certifies that the Bidder had read and fully understands all specifications, terms and conditions. No consideration will be given to any Claim resulting from offering without comprehending all requirements of the Contract Documents OAR 137-049-0260(3).

3.14 Protest of Offer Requirements: Bidders may, in writing protest or request changes of any specifications or contract terms. This written protest or request must be received by the Owner unless stated differently in the offering documents no later than ten (10) calendar days prior to the Offer Closing date. The written protest or request shall include the reasons for the protest or request, and any proposed changes to the offer specifications or contract terms. Envelopes containing offer protests shall be marked identifying the project name, closing date, time and include the words "Offer Protest".

4. Offer Submission

4.1 Submission Location: The offer and all required attachments must be received at the office of the Port of Brookings Harbor, 16340 Lower Harbor Road, Brookings, OR 97415, Attention: Kathy Lindley-Hall, Port Manager, by offer closing October 2nd, 2018 at 4:00 p.m. (PST). Submit the offer in a sealed envelope marked "Port of Brookings Harbor – Dock Pile Replacement Project." Sealed offers must be received prior to offer closing time.

4.2 Subcontractor Disclosure Form Submission: The Subcontractor Disclosure Form must be received with the offer submission or by 4:00 p.m. (PST) on the offer closing date.

4.3 Subcontractor Responsiveness: Compliance with the Subcontractor Disclosure and submittal requirements of ORS 279C.370(2) and (3) and this rule is a matter of responsiveness. Offers which are submitted by offer closing, but for which the Subcontractor Disclosure submittal has not been made by the specified deadline, are not Responsive and shall not be considered for contract award.

4.4 Offer Modification: Once submitted, offers may be modified in writing prior to the time and date set for offer closing. Modifications shall be prepared on the Bidder's letterhead, signed by an authorized representative of the Bidder, state that the new document supercedes or modifies the prior offer and be submitted in a sealed envelope, appropriately marked identifying the project name, closing time and date. Telephone, telegraphic and facsimile modifications are not acceptable.

4.5 Offer Withdrawals: An offer may be withdrawn prior to the offer closing time and date. Offers may be withdrawn in writing, on the Bidder's letterhead, signed by an authorized representative of the Bidder.

4.6 Late Offers: No offer received after offer closing time will be considered. The Owner shall not be responsible for the proper identification and handling of any offer not submitted in the proper form or specified location.

5. Offer Opening

5.1 Offer Reading: Offers will be opened at the Port of Brookings Harbor office between 4:00 p.m. (PST) October 2nd, 2018 and October 15th, 2013. Award decisions will not be made at the offer opening.

6. Offer Results

6.1 Offer Notification: To obtain offer results, notes may be taken at the public reading of the offer or a personal inspection may be made of the offer files at a later date, by appointment only, during regular business hours. Awarded offer files are public records and available for review upon request to the Owner.

6.2 Offer Tabulation: Bidders may request tabulations of offers from the Owner. Each request for offer tabulation must be written indicating the project name, offer closing date, your name and mailing address.

7. Offer Evaluation and Award

7.1 Offer Award: A contract may be awarded to the Lowest Responsible/Responsive Bidder, subject to the provisions of the offer requirements. The competency and responsibility of the Bidders and of their proposed subcontractors will also be considered in making the award.

7.2 Lowest Responsible/Responsive Bidder: Offers will be evaluated to identify the "lowest responsible/responsive Bidder". The "lowest responsible/responsive Bidder" is the lowest Bidder who has substantially complied with all requirements of the Contract Documents and who can be expected to deliver promptly and perform reliably.

7.3 Method of Award: Offer award will follow the procedure set forth in the Contract Documents, the Owner's Public Contract Rules and the Oregon Attorney General's Model Public Contract Rules in that order of priority. The Owner reserves the right to make the award by item, groups of items, entire offer, alternative offer or add/deduct whichever is in the best interest of the Owner.

7.4 Unit and Total Price: The price per item shall be clearly shown in the space provide in the Bid Sheet. The pricing shall be extended to show the total when required. In case of errors in extension the unit price shall prevail. The written unit price shall prevail over the numerical unit price.

7.5 Cash Discounts: Cash discounts will not be considered for award purposes unless stated in the Contract Documents.

7.6 Oregon Preference: Awards shall be subject to preference for products produced or manufactured in Oregon, price, fitness and quality being equal as defined by ORS 279A.120.

7.7 Reciprocal Law: In determining the lowest responsible Bidder, a nonresident Bidder eligible to receive a preference in the state that the Bidder resides, shall have that same percentage preference added to the offer amount, pursuant to ORS 279A.120.

7.8 Offer Rejection: The Owner may reject any offer not in compliance with all prescribed public bidding procedures and requirements, and may reject for good cause any or all offers upon a finding of the Owner that it is in the public interest ORS 279C.395.

7.9 Protest of Award: An adversely affected or aggrieved Bidder may protest contract award within the time stipulated in the bidding documents per OAR 137-049-0450, this timeline shall be no more than ten (10) calendar days following issuance of the written tentative notice of award. Notice of contract award shall consist of either a notice to the apparent lowest Bidder or issuance of the Notice to Proceed (whichever is earliest). Unsuccessful Bidders are not generally notified that a contract is awarded. In order to be an adversely affected or aggrieved Bidder, the Bidder must claim to be eligible for award of the contract as the lowest responsible and responsive Bidder and that any and all lower Bidders are ineligible to receive contract award. An actual Bidder who is adversely affected or aggrieved by the award of the contract to another Bidder may

protest award, in writing, within the timeline established. The written protest shall state the grounds upon which the protest is based. No protest of award shall be considered after the established timelines. Pursuant to OAR 137-049-0450, no protest against award because of the content of the specifications or contract terms shall be considered after the deadline for submitting protests for specifications or contract terms.

8. Contract Period and Notice to Proceed

8.1 Contract Performance Period: The Bidder shall note the contract period in calendar days which begins with the Notice to Proceed and ends with the Final Completion Date. The Bidder should make due allowance for any specified on-site work restrictions or other probable difficulties (weather, high water etc.) which may be encountered to assure that the work can be accomplished on schedule within the contract period.

8.2 Public Works Bond: The Bidder, shall file with the Construction Contractors Board and maintain in full force and effect a public works bond prior to starting work on the project. The Bidder will also require in every subcontract that the subcontractor file a public works bond prior to starting work on the project, unless exempt. ORS279C.830(2).

8.3 Performance Bond: The Bidder, to whom award is made, must enter into written Contract within fourteen (14) calendar days after the prescribed forms are presented to them for signature. Failure to enter into a Contract may result in bid bond forfeiture and result in award to the next lowest responsible/responsive Bidder. A 100% performance bond is required in the full amount of the Contract price.

8.4 Schedule of Values: Following the contract award and issuance of the notice to proceed the Contractor shall within ten (10) calendar days submit a lump sum offer cost breakdown, separated in major items of work on the form as provided by the Engineer of Record's Representative. Unless objected to by the Owner, this cost breakdown and the amount of accepted work performed shall be used as the basis for determination of progress payments to the Contractor during the construction period.

9. Anticipated Project Schedule

See "Bid Doc #1", Schedule/Timeline.

End of Instruction to Bidders Addendum

ATTACHMENT "A" – OFFER FORM RESIDENCY INFORMATION

ORS 279A.120 states "In determining the lowest responsible Bidder, a public contracting agency shall, for the purpose of awarding the contract, add a percent increase on the offer/proposal of a non-resident Bidder equal to the percent, if any, of the preference given to the Bidder in the state in which the Bidder resides."

“Resident bidder” means a Bidder that has paid unemployment taxes or income taxes in this state during the twelve (12) calendar months immediately preceding submission of the offer, has a business address in this state and has stated in the offer whether the Bidder is a “resident bidder”.

“Non-resident bidder” means an Bidder who is not a “resident bidder” as defined above.

a. Check one: Bidder is a () resident bidder () non-resident bidder

b. If a resident bidder, enter your Oregon business address:

c. If a non-resident bidder, enter your state of residency: _____

d. If a non-resident bidder, do you or your firm receive, or are you or your firm eligible for, any preference in award of contracts with your state’s government or with other governmental bodies in your state.

Check one: () yes () no

If yes, state your preference percentage: _____ %

If yes, but not a percentage of bid/proposal price, describe the preference:

If yes, state the law or regulation that allows the preference described (legal citation): _____

ATTACHMENT "B" – OFFER FORM

REFERENCES

Bidder shall provide a list of three (3) different project references, one of which must be a governmental body with their Offer that can be contacted regarding the quality of workmanship and service that the Bidder provided on projects of comparable size and scope.

Project Reference #1

Name of Project:

Project Location:

Project Date:

Project Owner Name:

Name of Contact Person #1:

Telephone Number / Fax Number for Contact Person #1:

Project Reference #2

Name of Project:

Project Location:

Project Date:

Project Owner Name:

Name of Contact Person #1:

Telephone Number /Fax Number for Contact Person #1:

Project Reference #3

Name of Project:

Project Location:

Project Date:

Project Owner Name

Name of Contact Person #1:

Telephone Number /Fax Number for Contact Person #1:

BID BOND

We, _____, as "Principal,"
(Name of Principal)

and _____, an _____ Corporation,
(Name of Surety)

authorized to transact Surety business in Oregon, as "Surety," hereby jointly and severally bind ourselves, our respective heirs, executors, administrators, successors and assigns to pay unto the Port of Brookings Harbor "Owner" the sum of (\$ _____) _____ dollars.

WHEREAS, the condition of the obligation of this bond is that Principal has submitted its proposal or offer to the Owner in response to Owner's procurement document for the project identified as: Port of Brookings Harbor Dock Pile Replacement Project, which proposal or offer is made a part of this bond by reference, and Principal is required to furnish bid security in an amount equal to ten (10%) percent of the total amount of the offer pursuant to ORS 279C.365 (4) and the procurement document.

NOW, THEREFORE, if the proposal or offer submitted by Principal is accepted, and if a contract pursuant to the proposal or offer is awarded to Principal, and if Principal enters into and executes such contract within the time specified in the procurement document and executes and delivers to the Owner its good and sufficient performance and payment bonds required by the Owner within the time fixed by Owner, then this obligation shall be void; otherwise, it shall remain in full force and effect.

IN WITNESS WHEREOF, we have caused this instrument to be executed and sealed by our duly authorized legal representatives this _____ day of _____, 20__.

PRINCIPAL: _____

SURETY: _____

By _____
Signature

BY ATTORNEY-IN-FACT:

Official Capacity

Name

Attest: _____
Corporation Secretary

Signature

Address

City State Zip

Phone Fax

**FIRST-TIER SUBCONTRACTOR DISCLOSURE FORM
(OAR 137-049-0360)**

Offers which are submitted by Offer Closing, but for which a required disclosure submittal has not been made by the specified Disclosure Deadline, are not responsive and shall not be considered for Contract award

OWNER SUPPLIED INFORMATION:

PROJECT NAME: PORT OF BROOKINGS HARBOR – Dock Pile Replacement Project
OFFER CLOSING Date: October 2nd, 2018 Time: 4:00 p.m. (PST)
Deliver Form To: Port of Brookings Harbor
Designated Recipient: Kathy Lindley-Hall, Phone #: (541) 469-2218
Owner’s Address: 16340 Lower Harbor Road, Brookings, OR 97415

INSTRUCTIONS:

The Owner will insert "N/A" above if the contract value is not anticipated to exceed \$100,000. Otherwise this form must be submitted either with the offer or within two (2) working hours after the advertised offer closing date and time; but no later than the DISCLOSURE DEADLINE stated above.

Unless otherwise stated in the solicitation, this document shall not be submitted by facsimile. It is the responsibility of Bidders to submit this disclosure form and any additional sheets, with the offer number and project name clearly marked, at the location indicated by the specified disclosure deadline (October 2nd 2018).

List below the Name, Category of Work and Dollar Value for each first-tier subcontractor that would be furnishing labor, or labor and material, for which disclosure is required. Enter the word "NONE" if there are no first-tier subcontractors subject to disclosure. **ATTACH ADDITIONAL SHEETS IF NECESSARY.**

BIDDER DISCLOSURE:

	SUBCONTRACTOR NAME	CATEGORY OF WORK	DOLLAR VALUE
1.	_____	_____	_____
2.	_____	_____	_____
3.	_____	_____	_____
4.	_____	_____	_____
5.	_____	_____	_____

The above listed first-tier subcontractor(s) are providing labor, or labor and material, with a Dollar Value equal to or greater than:

- a) 5% of the total Contract Price, but at least \$15,000. If the Dollar Value is less than \$15,000 do not list the subcontractor above; or
- b) \$350,000 regardless of the percentage of the total Contract Price.

Form Submitted By (Bidder Name): _____

Contact Name: _____ Phone #: _____

AGREEMENT

THIS AGREEMENT, between Port of Brookings Harbor, a special district of the State of Oregon, hereinafter called the "Owner and _____ doing business as (an individual,) or (a partnership,) or (a corporation) hereinafter called the "Contractor" for the Project entitled "PORT OF BROOKINGS HARBOR – Dock Pile Replacement Project", hereinafter called the "Project".

This Agreement means "Contract" and/or "Contract Documents" includes the following:

- (A) Public Notice
- (B) Instruction to Bidders
- (C) Approved Material, Product or Equipment Substitutions
- (D) Revised Bid Sheet
- (E) Residency Statement
- (F) First-Tier Subcontractor Disclosure Form
- (G) Bid Security
- (H) Drawings
- (I) Specifications
- (J) General Conditions for Public Improvement Contracts
- (K) Supplemental General Conditions
- (L) Addenda
- (M) Payment Bond
- (N) Performance Bond
- (O) Notice of Intent to Award
- (P) Agreement
- (Q) Agreement Amendments
- (R) Insurance Certificates
- (S) Notice to Proceed
- (T) Change Orders
- (U) Approved Shop Drawings
- (V) Notice of Substantial completion or Project Acceptance
- (W) Warranty Period

WITNESSETH: That for and in consideration of, the payments and Agreement hereinafter mentioned:

The Contractor will commence and complete the construction of the Project. The Contractor acknowledges receipt of all Contract Documents in existence at the date the Agreement is signed; and

The Contractor will furnish all of the materials, supplies, tools, equipment, labor, and other services necessary for the construction and completion of the Project described herein; and

In the event the Contractor fails to complete the work within the stipulated contract period, the Contractor shall be liable for and shall pay to the Owner a penalty in the amount of two-hundred and fifty dollars (\$250.00) per calendar day to commence on the first calendar day after the required completion date and to continue after each and every calendar day until all work is satisfactorily completed as specified in the Contract Documents; and

The Contractor agrees to perform all of the Work described in the Contract Documents and comply with the terms therein for the fixed sum of \$ _____
Unless the Contract Price is modified by executed Change Order; and

The Contractor shall certify in the Agreement, and it shall be a condition of the bond, as provided by ORS 279C.800 through 279C.878, that in performing this Agreement the Contractor will pay and cause to be paid not less than the prevailing rate of wages as of the date of the public notice, per hour, per day, and per week for and to each and every workman who may be employed in and about the performance of this Contract; and

The Contractor certifies and shall comply with all applicable Public Contract Laws to include ORS 279C.500 to ORS 279C.530 and the Oregon Worker's Compensation Laws as required by ORS 656.017 or the Davis Bacon Act 40 USC 276a; and

The Contractor shall pay a fee equal to one-tenth of one percent (0.1 percent) of the price of this Contract. The fee shall be paid on or before the first progress payment or 60 calendar days from the date work first began on the Contract, whichever comes first. The fee is payable to the Bureau of Labor and Industries; and

The Contractor certifies, under penalty of perjury, that the Contractor's Company is not in violation of any Oregon tax laws; and

The Contractor has read and fully understands all Contract Documents, Contract terms and conditions and understands that in signing this Agreement the Contractor waives all rights to plead any misunderstandings regarding the same; and

The Owner agrees to pay the Contractor in the manner and at such times as set forth in the General Conditions such amounts as required by the Agreement, unless otherwise modified by written notice or executed Change Order; and

Should any clause or section of this Agreement be declared by court to be void or voidable, the remainder of this Agreement shall remain in full force and effect. Any attorney fees, costs and disbursements necessary to enforce this Contract through litigation including appeals shall be awarded to the prevailing party. Any mediation or arbitration costs shall be split equally between the parties; and

The Agreement is executed in the State of Oregon and is subject to Oregon law and jurisdiction it is executed in; and

Failure to enforce any provision of this Contract does not constitute a continuing waiver of that provision, any other provision, or the entire Contract. Contractor waives any right to Claim mistake or misrepresentation regarding the terms and conditions of the Contract Documents and the present and/or reasonably foreseeable conditions which may affect the Project site(s); and

Contractor covenants and agrees to bind any and all Subcontractor(s) for performance of work under this Agreement. Any reference to Contractor shall include any and all "Subcontractor(s)" ad infinitum; and

The rights and duties under this Agreement shall not be modified, delegated, transferred or assigned, except upon written signed consent of both parties. This Agreement shall be binding upon all parties hereto and their respective heirs, executors, administrators, successors and assigns.

THE CONTRACT DOCUMENTS CONSTITUTES THE ENTIRE AGREEMENT BETWEEN THE PARTIES. NO WAIVER, CONSENT, MODIFICATION OR CHANGE IN TERMS OF THIS CONTRACT SHALL BIND EITHER PARTY UNLESS IN WRITNG AND SIGNED BY BOTH PARTIES. SUCH WAIVER, CONSENT, MODIFICATION OR CHANGE, IF MADE, SHALL BE EFFECTIVE ONLY FOR THE SPECIFIC INSTANCE AND FOR THE SPECIFIC PURPOSE GIVEN. THERE ARE NO UNDERSTANDINGS, AGREEMENTS, OR REPRESENTATIONS, ORAL OR WRITTEN NOTICE SPECIFIED HEREIN REGARDING THIS CONTRACT. THE CONTRACTOR, BY SIGNATURE OF ITS AUTHORIZED REPRESENTATIVE, HERENY ACKNOWLEDGES THAT HE/SHE HAS READ THIS CONTRACT, UNDERSTANDS IT, AND AGREES TO BE BOUND BY ITS TERMS AND CONDITIONS.

IN WITNESS WHEREOF, the parties hereto have executed, or caused to be executed by their duly authorized officials, this Agreement in duplicate, each of which shall be deemed an original on the date executed by all parties.

CONTRACTOR:

Company Name: _____ Signature: _____
Typed Name: _____ Title: _____
Federal Tax ID No.: _____ CCB Number: _____

OWNER:

Approved by Owner's Legal Counsel

Name: _____ Name: _____
Signature: _____ Signature: _____
Typed Name: _____ Typed Name: _____
Title: _____ Title: _____
Date: _____ Date: _____

End of Agreement

PAYMENT BOND

Bond No. _____
Solicitation _____
Project Name _____

_____ (Surety #1) Bond Amount No. 1: \$ _____
_____ (Surety #2)* Bond Amount No. 2:* \$ _____
* *If using multiple sureties* Total Penal Sum of Bond: \$ _____

We, _____, as Principal, and the above identified Surety(ies), authorized to transact surety business in Oregon, as Surety, hereby jointly and severally bind ourselves, our respective heirs, executors, administrators, successors and assigns firmly by these presents to pay unto the Port of Brookings Harbor the sum of (Total Penal Sum of Bond) _____ (Provided, that we the Sureties bind ourselves in such sum "jointly and severally" as well as "severally" only for the purpose of allowing a joint action or actions against any or all of us, and for all other purposes each Surety binds itself, jointly and severally with the Principal, for the payment of such sum only as is set forth opposite the name of such Surety), and

WHEREAS, the Principal has entered into a contract with the Port of Brookings Harbor, the plans, specifications, terms and conditions of which are contained in above-referenced Solicitation;

WHEREAS, the terms and conditions of the contract, together with applicable plans, standard specifications, special provisions, schedule of performance, and schedule of contract prices, are made a part of this Payment Bond by reference, whether or not attached to the contract (all hereafter called "Contract"); and

WHEREAS, the Principal has agreed to perform the Contract in accordance with the terms, conditions, requirements, plans and specifications, and schedule of contract prices which are set forth in the Contract and any attachments, and all authorized modifications of the Contract which increase the amount of the work, or the cost of the Contract, or constitute authorized extensions of time for performance of the Contract, notice of any such modifications hereby being waived by the Surety;

NOW, THEREFORE, THE CONDITION OF THIS BOND IS SUCH that if the Principal shall faithfully and truly observe and comply with the terms, conditions and provisions of the Contract, in all respects, and shall well and truly and fully do and perform all matters and things by it undertaken to be performed under said Contract and any duly authorized modifications that are made, upon the terms set forth therein, and within the time prescribed therein, or as extended therein as provided in the Contract, with or without notice to the Sureties, and shall indemnify and save harmless the Port of Brookings Harbor and members thereof, its officers, employees and agents, against any claim for direct or indirect damages of every kind and description that shall be suffered or claimed to be suffered in connection with or arising out of the performance of the Contract by the Contractor or its subcontractors,

and shall promptly pay all persons supplying labor, materials or both to the Principal or its subcontractors for prosecution of the work provided in the Contract; and shall promptly pay all contributions due the State Industrial Accident Fund and the State Unemployment Compensation Fund from the Principal or its subcontractors in connection with the performance of the Contract; and shall pay over to the Oregon Department of Revenue all sums required to be deducted and retained from the wages of employees of the Principal and its subcontractors pursuant to ORS 316.167, and shall permit no lien nor claim to be filed or prosecuted against the Owner on account of any labor or materials furnished; and shall do all things required of the Principal by the laws of this State, then this obligation shall be void; otherwise, it shall remain in full force and effect.

Nonpayment of the bond premium will not invalidate this bond nor shall the Port of Brookings Harbor, or the above-referenced members, officers, employees or agents be obligated for the payment of any premiums.

This bond is given and received under authority of ORS Chapter 279, the provisions of which hereby are incorporated into this bond and made a part hereof.

IN WITNESS WHEREOF, WE HAVE CAUSED THIS INSTRUMENT TO BE EXECUTED AND SEALED BY OUR DULY AUTHORIZED LEGAL REPRESENTATIVES:

Dated this _____ day of _____, 20__.

PRINCIPAL: _____

By _____
Signature

Official Capacity

Attest: _____
Corporation Secretary

SURETY: _____
[Add signatures for each if using multiple bonds]

BY ATTORNEY-IN-FACT:
[Power-of-Attorney must accompany each bond]

Name

Signature

Address

City State Zip

Phone Fax

PERFORMANCE BOND

Bond No. _____
Solicitation _____
Project Name _____

_____ (Surety #1) Bond Amount No. 1: \$ _____
_____ (Surety #2) * Bond Amount No. 2: * \$ _____
** If using multiple sureties* Total Penal Sum of Bond: \$ _____

We, _____ as Principal, and the above identified Surety(ies), authorized to transact surety business in Oregon, as Surety, hereby jointly and severally bind ourselves, our respective heirs, executors, administrators, successors and assigns firmly by these presents to pay unto the Port of Brookings Harbor the sum of (Total Penal Sum of Bond) _____ (Provided, that we the Sureties bind ourselves in such sum "jointly and severally" as well as "severally" only for the purpose of allowing a joint action or actions against any or all of us, and for all other purposes each Surety binds itself, jointly and severally with the Principal, for the payment of such sum only as is set forth opposite the name of such Surety), and

WHEREAS, the Principal has entered into a contract with the, the plans, specifications, terms and conditions of which are contained in the above-referenced Solicitation;

WHEREAS, the terms and conditions of the contract, together with applicable plans, standard specifications, special provisions, schedule of performance, and schedule of contract prices, are made a part of this Performance Bond by reference, whether or not attached to the contract (all hereafter called "Contract"); and

WHEREAS, the Principal has agreed to perform the Contract in accordance with the terms, conditions, requirements, plans and specifications, and all authorized modifications of the Contract which increase the amount of the work, the amount of the Contract, or constitute an authorized extension of the time for performance, notice of any such modifications hereby being waived by the Surety:

NOW, THEREFORE, THE CONDITION OF THIS BOND IS SUCH that if the Principal herein shall faithfully and truly observe and comply with the terms, conditions and provisions of the Contract, in all respects, and shall well and truly and fully do and perform all matters and things undertaken by Contractor to be performed under the Contract, upon the terms set forth therein, and within the time prescribed therein, or as extended as provided in the Contract, with or without notice to the Sureties, and shall indemnify and save harmless the Port of Brookings Harbor, and members thereof, its officers, employees and agents, against any direct or indirect damages or claim of every kind and description that shall be suffered or claimed to be suffered in connection with or arising out of the performance of the Contract by the Principal or its subcontractors, and shall in all respects perform said contract according to law, then this obligation is to be void; otherwise, it shall remain in full force and effect.

Nonpayment of the bond premium will not invalidate this bond nor shall the State of Oregon, or the above-referenced members, officers, employees and agents, be obligated for the payment of any premiums.

This bond is given and received under authority of ORS Chapter 279, the provisions of which hereby are incorporated into this bond and made a part hereof.

IN WITNESS WHEREOF, WE HAVE CAUSED THIS INSTRUMENT TO BE EXECUTED AND SEALED BY OUR DULY AUTHORIZED LEGAL REPRESENTATIVES.

Dated this _____ day of _____, 20__.

PRINCIPAL: _____

By _____
Signature

Official Capacity

Attest: _____
Corporation Secretary

SURETY: _____

[Add signatures for each surety if using multiple bonds]

BY ATTORNEY-IN-FACT:

[Power-of-Attorney must accompany each surety bond]

Name

Signature

Address

City State Zip

Phone Fax

CONTRACTOR'S RELEASE OF LIENS AND CLAIMS FORM

To: Kathy Lindley-Hall
Port of Brookings Harbor
16340 Lower Harbor Road,
Brookings, OR 97415,

From: _____

Project: **Port of Brookings Harbor – Dock Pile Replacement**

In connection with our request for final payment for the above Project, I, _____
Hereby state that

- All subcontractors and suppliers have been paid in full,
- All obligations on the Project have been satisfied,
- All monetary claims and indebtedness have been paid,
- All disputes with property Owners have been resolved,

To the best of my knowledge, there are no liens or claims of any kind outstanding against the Project. Furthermore, I agree to indemnify and hold harmless the Port of Brookings Harbor from any and all Claims for labor or materials furnished under the Contract for the above Project.

Dated this _____ day of _____, 20 ____ .

Contractor: _____

By: _____ Title: _____

State of Oregon

County of _____

On this _____ day of _____, 20 ____ . before me personally appeared

- _____ Whom I know personally
 - _____ Whose identity I proved on the basis of _____
 - _____ Whose identity I proved on the oath/affirmation of _____
- a credible witness to be the signer of the above document, and he/she acknowledges that he/she executed the same.

S
E Notary Public _____
A
L My Commission Expires: _____