

EXHIBIT A

MOLALLA RURAL FIRE PROTECTION DISTRICT #73 ARCHITECTURAL/ENGINEERING SERVICE CONTRACT

This Contract is by and between Molalla Rural Fire Protection District #73 (District) and _____ (Engineer) for the performance of architectural/engineering services to provide: (1) Seismic Evaluation of Stations Nos. 81 and 82; (2) Master Plan of full site of Station 82; and (3) Design and construction of an apparatus bay, office, and storage structure at Station No. 82, (collectively, the "Project").

RECITALS

District solicited proposals from Engineer and engineering firms to provide architectural and/or engineering services for Project through a formal competitive proposal process, conducted under District Public Contracting Rule 137-048-0220.

Engineer submitted its proposal, having examined the Request for Proposals, and was chosen as the most highly qualified Engineer, best suited to meet the District's needs pursuant to the RFP criteria.

District has awarded the Contract to Engineer.

CONTRACT EXHIBITS

The following exhibits are incorporated into this Contract by reference:

- Exhibit A – Scope of Work
- Exhibit B – Oregon Public Contracting Code Requirements (279C)
- Exhibit C – Request for Proposal
- Exhibit D – Engineer's Proposal

In the event of a conflict, the terms of this Contract shall govern, followed by Exhibits A-D, in that order.

CONTRACT

1. Term

The term of this Contract shall be from its execution to Project completion on or before _____, 20__.

2. Scope of Work

Engineer shall provide all services and deliver all materials as specified in the attached Exhibits A, C and D, which are hereby incorporated into the Contract by this reference. All services and materials shall be provided by Engineer in accordance with the Exhibits in a competent and professional manner.

Changes to the Contract shall be made only by a written Change Order. No change in the work or any extra work shall be performed prior to written approval of the Change Order by District. Failure of Engineer to secure written authorization for extra work shall constitute a waiver of all rights to an adjustment in the Contract price or Contract time. The price included on any Change Order shall be inclusive of all estimated costs, both direct and indirect, relating to the change in work. Further, the Change Order shall provide a detailed basis for substantiating any monetary

and/or work changes. If monetary changes are made, the Change Order shall contain a maximum not to exceed amount.

Upon District's request and without additional compensation, Engineer shall make such revisions to completed Contract Documents as are necessary to correct errors or omissions appearing therein, which deviated from the standard of care described in Section 21.

If all construction bids come in over the District's budgeted amount for the construction Project, or otherwise must all be rejected, Engineer shall either redraft Project specifications to bring the Project within budget or rebid the Project, in District's discretion. District may choose to negotiate compensation for Engineer's costs associated with redrafting Project specifications upon receipt of Engineer's written request to this effect, in District's sole discretion. Engineer shall be responsible for the cost of all licenses and permits necessary to perform the services under this contract, and to arrange for and obtain all such licenses and permits from the appropriate office or agency.

For the purposes of this Contract, "Change Order" means a written order signed by the Engineer and District authorizing a change in the work and/or an adjustment in the price, deliverable due dates, substantial completion date, or final completion date.

3. Compensation

Engineer shall complete its scope of work as defined in Exhibits A, C and D for a total fee of _____ Dollars (\$ _____), including reimbursable expenses. Reimbursable expenses shall be itemized and include expenses incurred by Engineer in the interest of the Project for: 1) Long distance communications; 2) Fees paid for securing permits and approval of authorities having jurisdiction over the Project; 3) Reproductions, presentations and work session handouts or other materials; 4) Postage and handling of documents; 5) Expense of overtime work requiring higher than regular rates, if authorized by District; and 6) Renderings and models requested by District.

Payments shall be based upon monthly invoices which Engineer shall submit to the District, detailing the previous months' fees, costs and percentage of the Project completed at that time. Upon request, Engineer will provide the District representative with documents, records, and draft plans evidencing the progress made on the Project to date. Engineer shall send invoices to District's representative at District's address set forth in Section 6. In the event of non-payment due to a fee dispute between the parties, Engineer shall continue to provide Contract services to District.

4. Contractor Is an Independent Contractor

Engineer shall be an independent contractor for all purposes and shall be entitled to no compensation other than the compensation provided for under this Contract. While District reserves the right to set the schedule and evaluate the quality of the completed work, District cannot and will not control the means and manner of Engineer's performance. Engineer is responsible for determining the appropriate means and manner of performing work. Engineer is responsible for all federal and state taxes applicable to compensation and payment paid to Engineer under the Contract and will not have any amounts withheld by District to cover Engineer's tax obligations. Engineer is not eligible for any District fringe benefit plans.

5. Project Managers

District's Project Manager is Vince Stafford, Fire Chief or his Designee, for District. Engineer's Project Manager is _____. Engineer shall remove any individual or sub-consultant from the Project if so directed by District in writing following discussion with Engineer, provided that Engineer shall, with District's approval, have a reasonable time period within which to find a suitable replacement.

6. Notices

All notices provided for hereunder shall be in writing and shall be deemed to be duly served on the date of delivery if delivered in person, when receipt of transmission is generated by the transmitting facsimile machine if delivered by facsimile transmission, on the day after deposit if delivered by overnight courier, or three days after deposit if delivered by placing in the U.S. mail, first-class, postage prepaid. Any notice delivered by facsimile transmission shall be followed by a hard copy. All notices shall be addressed as follows:

Vince Stafford, Fire Chief
Molalla Rural Fire Protection District #73
320 N Molalla Avenue
P.O. Box 655
Molalla, OR 97038
Phone: (503) 829-2200
Email: vstafford@molallafire.org

_____, Engineer

Phone: _____
Fax: _____

7. Indemnification

Engineer shall indemnify, hold harmless, and defend District and its representatives, officers, directors, and employees from any loss or claim made by third parties, including legal fees and costs of defending actions or suits resulting directly or indirectly from Engineer's negligent performance and/or fault of Engineer, its employees, representatives, or subcontractors. If the loss or claim is caused by the joint concurrent negligence or other fault of District and Engineer, the loss or claim shall be borne by each in proportion to the degree of negligence or other fault attributable to each.

Engineer shall defend District from claims covered under this section at Engineer's sole cost and expense until such time as: (1) an arbitration panel or a court of competent jurisdiction determines that District is liable in whole or in part for the loss or claim caused by District's negligence; or (2) District and Engineer mutually agree to allocate the liability.

Engineer's indemnification obligations under this Section 7 shall survive the expiration or earlier termination of this Contract.

8. Insurance Requirements

8.1 During the term of this Contract, Engineer shall maintain, at its own expense, the following types insurance in the following amounts:

- a. Comprehensive General Liability insurance, including coverage for premises operations, independent contractors, protected products, completed operations, contractual liability, personal injury, and broad form for property damage (including coverage for explosion, collapse, and underground hazards):

- \$2,000,000 – each occurrence (bodily injury)
- \$2,000,000 – general aggregate
- \$1,000,000 – property damage, contractual, etc.
- \$2,000,000 – umbrella liability coverage

Coverage shall also include contractual liability coverage for the indemnity provided under this contract. (Proof of coverage will be attached to this contract).

- b. Workers' Compensation and employer's liability insurance per ORS Chapter 656. The employer's liability limit shall not be less than \$1,000,000 per occurrence. (Proof of coverage will be attached to this contract).
 - c. Errors and Omissions insurance covering Engineer's liability arising out of negligent acts, errors or omissions in its performance of work or services under this Contract. Such policy will have a combined single limit of not less than \$2,000,000 per each claim, incident or occurrence for the term of the Project. Such policy will be on a claims made basis and will have an extended claims reporting period of six (6) years after final completion. (Proof of coverage will be attached to this contract).
 - d. The limits required in this Section 8.1 may be met with a combination of underlying and umbrella coverage.
- 8.2 Except as required in 8.1(e) above, if any of the above required insurance is arranged on a "claims made" basis, "tail" coverage will be required at final completion or termination of this Contract for a duration of two (2) years.
- 8.3 Policies shall provide that District, its directors, officers, representatives, employees, and agents will be included as an additional insured with respect to the coverages required in Section 8.1(a) and a waiver of subrogation against them shall be obtained for all coverages. (Proof of coverage will be attached to this contract).
- 8.4 All coverages under Section 8.1 shall be primary over any insurance District may carry on its own.
- 8.5 Engineer shall be solely responsible for any loss, damage or destruction to its own property, equipment, and materials used in conjunction with the work or services under this Contract.
- 8.6 All policies of insurance shall be issued by good, responsible companies, with a rating reasonably acceptable to District and that are qualified to do business in the State of Oregon.
- 8.7 Engineer shall furnish District with certificates of insurance evidencing all required coverages prior to commencing any work or services under this Contract. If requested by District, Engineer shall furnish District with executed copies of such policies of insurance. Engineer shall furnish District with at least thirty (30) days' written notice of cancellation of, or modification to, the required insurance coverages. Failure to maintain any required insurance coverages in the minimum required amounts shall constitute a material breach of this Contract and shall be grounds for immediate termination of this Contract.

9. Workers' Compensation

- 9.1 Engineer, its subcontractors, if any, and all employers working under this Contract are subject employers under the Oregon Workers' Compensation Law and shall comply with ORS 656.017, which requires them to provide workers' compensation coverage for all subject workers.
- 9.2 Engineer warrants that all persons engaged in Contract work and subject to the Oregon Workers' Compensation Law are covered by a workers' compensation plan or insurance policy that fully complies with Oregon law. Engineer shall indemnify District for any

liability incurred by District as a result of Engineer's breach of the warranty under this Section.

10. Hours of Employment

Engineer shall comply with all applicable state and federal laws regarding employment.

11. Assignment

Engineer may not assign any of its responsibilities under this Contract without District's prior written consent, which consent may be withheld in District's sole discretion. Engineer may not subcontract for performance of any of its responsibilities under this Contract without District's prior written consent, which consent shall not be unreasonably withheld. Engineer's assigning or subcontracting of any of its responsibilities under the Contract without District's consent shall constitute a material breach of this Contract. Regardless of any assignment or subcontract, Engineer shall remain liable for all of its obligations under this Contract.

12. Labor and Material

Engineer shall provide and pay for all labor, materials, equipment, tools, water, heat, utilities, transportation, and other facilities and services necessary for the proper execution and completion of all Contract work, all at no cost to District other than the compensation provided in this Contract.

13. Ownership of Work and Documents

All work performed by Engineer and compensated by District pursuant to this Contract shall be the property of District upon full compensation for that work performed or document produced to Engineer, and it is agreed by the parties that such documents are works made for hire. Engineer hereby conveys, transfers and grants to District all rights of reproduction and the copyright to all such documents. However, in the event District reuses or modifies any materials furnished to District by Engineer, without Engineer's involvement or consent, then Engineer shall not be responsible for the materials.

14. Termination for Convenience

This Contract may be terminated by mutual consent of the parties upon written notice. In addition, District may terminate all or part of this Contract upon determining that termination is in the best interest of District by giving seven (7) days' prior written notice of intent to terminate, without waiving any claims or remedies it may have against Engineer. Upon termination under this Section, Engineer shall be entitled to payment in accordance with the terms of this Contract for Contract work completed and accepted before termination less previous amounts paid and any claim(s) District has against Engineer. Pursuant to this Section, Engineer shall submit an itemized invoice for all unreimbursed Contract work completed before termination and all Contract closeout costs actually incurred by Engineer. District shall not be liable for any costs invoiced later than thirty (30) days after termination unless Engineer can show good cause beyond its control for the delay.

15. Termination for Cause

District may terminate this Contract effective upon delivery of written notice to Engineer, or at such later date as may be established by District, under any of the following conditions:

- 15.1 If District funding is not obtained and continued at levels sufficient to allow for purchases of the indicated quantity of services. The Contract may be modified to accommodate a reduction in funds.

- 15.2 If federal or state regulations or guidelines are modified, changed, or interpreted in such a way that the services are no longer allowable or appropriate for purchase under this Contract or are no longer eligible for the funding proposed for payments authorized by this Contract.
- 15.3 If any license or certificate required by law or regulation to be held by Engineer to provide the services required by this Contract is for any reason denied, revoked, or not renewed.

16. Termination for Default

If the District fails to perform in the manner called for in this Contract or if the District fails to comply with any other provisions of the Contract, the Engineer may terminate this Contract for default after giving the District the notice and opportunity to cure required by this Section. Prior to termination for default, the Engineer must give the District written notice of the breach and the Engineer's intent to terminate. If the District has not entirely cured the breach within fifteen (15) days of the date of the notice, then the Engineer may terminate the Contract at any time thereafter by giving the District a written notice of termination.

If Engineer fails to perform in the manner called for in this Contract or if Engineer fails to comply with any other provisions of the Contract, District may terminate this Contract for default. Termination shall be effected by serving a notice of termination on Engineer setting forth the manner in which Engineer is in default. Engineer shall be paid the Contract price only for services performed in accordance with the manner of performance as set forth in this Contract.

17. Remedies

In the event of breach of this Contract the parties shall have the following remedies:

- 17.1 If terminated under Section 16 by District due to a breach by Engineer, District may complete the work either itself, by agreement with another contractor, or by a combination thereof. If the cost of completing the work exceeds the remaining unpaid balance of the total compensation provided under this Contract, then Engineer shall pay to District the amount of the reasonable excess.
- 17.2 In addition to the above remedies for a breach by Engineer, District also shall be entitled to any other equitable and legal remedies that are available.
- 17.3 If District breaches this Contract, Engineer's remedy shall be limited to termination of the Contract and receipt of Contract payments to which Engineer is entitled.
- 17.4 District shall not be liable for any indirect, incidental, consequential, or special damages under the Contract or any damages arising solely from terminating the Contract in accordance with its terms.
- 17.5 Upon receiving a notice of termination, and except as otherwise directed in writing by District, Engineer shall immediately cease all activities related to the services and work under this Contract. As directed by District, Engineer shall, upon termination, deliver to District all then existing work product that, if the Contract had been completed, would be required to be delivered to District.

18. Nondiscrimination

During the term of this Contract, Engineer shall not discriminate against any employee or applicant for employment because of race, religion, color, sex, age, or national origin.

19. 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 District and Engineer that arises from or relates to this Contract which results in litigation shall be brought and conducted solely and exclusively within the Circuit Court of Clackamas 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. ENGINEER BY EXECUTION OF THIS CONTRACT, HEREBY CONSENTS TO THE IN PERSONAM JURISDICTION OF SAID COURTS. Nothing herein shall be construed as a waiver of District's protection under the Oregon Tort Claims Act.

20. Compliance with Laws and Regulations

Engineer shall comply with all federal, state and local laws, regulations, executive orders and ordinances applicable to the services under this Contract. Without limiting the generality of the foregoing, Engineer expressly agrees to comply with: (i) ORS 659A.425; (ii) all regulations and administrative rules established pursuant to the foregoing laws; and (iii) District's performance under this Contract is conditioned upon Engineer's compliance with all applicable provisions of the Oregon Public Contracting Code, as more particularly set forth in Exhibit B and incorporated herein by this reference. Engineer, its sub-consultants and all employers providing work, labor or materials under this Contract are subject employers under the Oregon workers' compensation law and shall comply with ORS 656.017, which requires them to provide Oregon workers' compensation coverage that satisfies Oregon law for all their subject workers. Engineer shall adhere to all safety standards and regulations established by District for work performed on its premises or under its auspices.

21. Experience, Capabilities and Resources

By execution of this Contract, the Engineer agrees that:

Engineer is an experienced engineering firm having the skill, legal capacity, and professional ability necessary to perform all the services required under this Contract to design or administer any work within the scope and complexity contemplated by this Contract.

Engineer has the capabilities and resources necessary to perform the obligations of this Contract.

Engineer is familiar with all current laws, rules, and regulations which are applicable to the design and construction of the Project, and that all drawings, specifications, and other documents prepared by Engineer shall be prepared in accordance with the standard of care of other professionals performing similar services under similar conditions and in an effort to accurately reflect and incorporate all such laws, rules, and regulations.

22. Drawings, Specifications and Other Documents

Engineer hereby agrees that it will, in a manner consistent with its standard of care defined in above in Section 21, prepare all drawings, specifications, and other documents pursuant to this Contract so that they are complete and that the Project, if constructed in accordance with the intent established by such drawings, specifications, and other documents, shall be structurally sound and a complete and properly functioning facility.

23. Errors and Omissions

Engineer shall be responsible for correcting any errors or omissions in the drawings, specifications, and/or other documents which deviate from the standard of care set forth in Section 21. Engineer shall correct, at no additional cost to District, any and all such errors and

omissions in the drawings, specifications, and other documents prepared by Engineer or its sub-consultants. Engineer further agrees to assist District in resolving problems relating to the Project design or specified materials. Engineer's warranties and obligations under Sections 21 -22 of this Contract shall survive the expiration or earlier termination of this Contract.

24. Contract Performance

Engineer shall at all times carry on the services diligently, without delay and punctually fulfill all requirements herein. All design documents and work for the Project shall be completed no later than _____, 201__.

Engineer shall not be liable for delays that are beyond Engineer's control. Contract expiration shall not extinguish, prejudice, or limit either party's right to enforce this Contract with respect to any breach of Engineer's warranties or a default or defect in performance by Engineer that has not been cured. Engineer agrees that time is of the essence under this Contract.

25. Access to Records

For not less than three (3) years after the Contract expiration and for the purpose of making audit, examination, excerpts, and transcripts, District, and its duly authorized representatives shall have access to Engineer's books, documents, papers, and records that are pertinent to this Contract. If for any reason, any part of this Contract, or any resulting construction contract(s) is involved in litigation, Engineer shall retain all pertinent records for not less than three years or until all litigation is resolved, whichever is longer. Engineer shall provide full access to these records to District, and its duly authorized representatives in preparation for and during litigation.

26. Representations and Warranties

Engineer represents and warrants to District that: (1) Engineer has the power and authority to enter into and perform this Contract; (2) when executed and delivered, this Contract shall be a valid and binding obligation of Engineer enforceable in accordance with its terms; (3) Engineer 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; and (4) the services under this Contract shall be performed in accordance with the professional skill, care and standards of other professionals performing similar services under similar conditions. The warranties set forth in this section are in addition to, and not in lieu of, any other warranties provided.

27. District Obligations

- 27.1 District shall provide full information in a timely manner regarding requirements for and limitations on the Project. With regard to subcontractor liens, District shall furnish to Engineer, within fifteen (15) days after receipt of a written request, information necessary and relevant for Engineer to evaluate, give notice of, or enforce lien.
- 27.2 District shall establish and update, if necessary, an overall Project budget, including engineering and construction costs.
- 27.3 District shall furnish the services of consultants, including geotechnical engineers, when such services are requested by Engineer, reasonably required by the scope of the Project, and agreed to by District.
- 27.4 District shall furnish all testing as required by law or the contract documents.
- 27.5 District shall furnish all legal accounting, auditing and insurance services as necessary for the Project to meet the District's needs and interests, after Engineer has performed requisite Project management and oversight duties.

- 27.6 District shall provide prompt written notice to Engineer if District becomes aware of any fault or defect in the Project, including any errors, omissions or inconsistencies in Engineer's design or performance under this Contract.
- 27.7 District shall pay the sum of up to \$ [REDACTED], in accordance with Section 3 of this Contract, to Engineer in monthly installments made upon Engineer's submission of monthly invoices, and satisfactory progress and performance made in accordance with the Scope of Work. Payments shall reflect the progress made on the Project to date, on a pro rata basis.
- 27.8 District shall report the total amount of all payments to Engineer, including any expenses, in accordance with federal Internal Revenue Service and State of Oregon Department of Revenue regulations.
- 27.9 District shall guarantee access to, and make all provisions for Engineer to enter upon public and private property necessary for performance of the Scope of Work over which District exercises control.

28. Arbitration

All claims, disputes, and other matters in question between the District and Engineer arising out of, or relating to the contract documents, including rescission, reformation, enforcement, or the breach thereof, except for claims which may have been waived by the making or acceptance of final payment, may be decided by binding arbitration in District's sole discretion, in accordance the Oregon Uniform Arbitration Act, ORS 36.600 *et seq.* and any additional rules mutually agreed to by both parties. If the parties cannot agree on rules within ten (10) days after the notice of demand, the presiding judge of the Clackamas County Circuit Court will establish rules to govern the arbitration. The District shall have the sole discretion as to whether or not dispute will be decided by arbitration rather than through the court process.

A claim by Engineer arising out of, or relating to this Contract must be made in writing and delivered to the District not less than 30 days after the date of the occurrence giving rise to the claim. Failure to file a claim with the District within 30 days of the date of the occurrence that gave rise to the claim shall constitute a waiver of the claim. A claim filed with the District will be considered by the District Board at the Board's next regularly scheduled meeting. At that meeting the Board will render a written decision approving or denying the claim. If the claim is denied by the Board, the Engineer may file a written request for arbitration with the District. No demand for arbitration shall be effective until the District Board has rendered a written decision denying the underlying claim. No demand for arbitration shall be made later than thirty (30) days after the date on which the District Board has rendered a written decision on the underlying claim. The failure to demand arbitration within said 30 days shall result in the Board's decision being binding upon the District and Engineer.

Notice of demand for arbitration shall be filed in writing with the other party to the Contract. The demand for arbitration shall be made within the 30-day period specified above. The District, if not the party demanding arbitration, has the option of allowing the matter to proceed with binding arbitration or by written notice within five (5) days after receipt of a demand for arbitration, reject arbitration and require the other party to proceed through the courts for relief. If arbitration is followed, the parties agree that the award rendered by the arbitrators will be final, judgment may be entered upon it in any court having jurisdiction thereof, and will not be subject to modifications or appeal except to the extent permitted by Oregon law.

29. Joinder

Notwithstanding any contrary language in other documents or agreements related to services provided by Engineer pursuant to this Contract, including contracts for construction services,

either party, at its sole discretion, may include by joinder persons or entities substantially involved in a common question of law or fact arising out of or related to this Contract and whose presence is required if complete relief is to be accorded. This Section applies to any and all claims, disputes, and other matters arising out of, or relating to this Contract, including but not limited to those claims, disputes, and other matters subject to litigation or arbitration.

30. Attorney Fees

If any suit, action or arbitration is brought either directly or indirectly to rescind, reform, interpret or enforce the terms of this contract, the prevailing party shall recover and the losing party hereby agrees to pay reasonable attorney's fees incurred in such proceeding, in both the trial and appellate courts, as well as applicable costs and disbursements. Further, if it becomes necessary for District to retain the services of an attorney to enforce any provision of this contract without initiating litigation, Engineer agrees to pay District's attorney's fees so incurred. Such costs and fees shall bear interest at the maximum legal rate from the date incurred until the date paid by the losing party.

31. Successors and Assigns; Subcontractors and Assignments

The provisions of this Contract shall be binding upon and shall inure to the benefit of the parties hereto, and their respective successors and assigns.

32. Limitation of Liabilities

District shall not be liable for (i) any indirect, incidental, consequential or special damages under the Contract or (ii) any damages of any sort arising solely from the termination of this Contract in accordance with its terms. Engineer shall not be liable for any consequential damages under this Contract.

33. Foreign Contractor

If Engineer is not domiciled in or registered to do business in the State of Oregon, Engineer shall promptly provide to the Oregon Department of Revenue and the Corporations Division of the Oregon Secretary of State all information required by those agencies relative to this Contract. Engineer shall demonstrate its legal capacity to perform the work under this Contract in the State of Oregon prior to entering into this Contract.

34. Confidentiality

Engineer shall maintain the confidentiality of any of District's information that has been so marked as confidential, unless withholding such information would violate the law, create the risk of significant harm to the public or prevent Engineer from establishing a claim or defense in an adjudicatory proceeding. Engineer shall require similar agreements from Engineer's sub-consultants to maintain the confidentiality of information of District.

35. Force Majeure

Engineer shall not be deemed in default hereof nor liable for damages arising from its failure to perform its duties or obligations hereunder if such is due to causes beyond its reasonable control, including, but not limited to, acts of God, acts of civil or military authorities, fires, floods, windstorms, earthquakes, strikes or other labor disturbances, civil commotion or war.

36. Waivers

No waiver by District of any provision of this Contract shall be deemed to be a waiver of any other provision hereof or of any subsequent breach by Engineer of the same or any other provision. District's consent to or approval of any act by Engineer requiring District's consent or approval

shall not be deemed to render unnecessary the obtaining of District's consent to or approval of any subsequent act by Engineer, whether or not similar to the act so consented to or approved.

37. Severability

Any provision of this Contract which shall prove to be invalid, void or illegal shall in no way affect, impair or invalidate any other provision hereof, and such remaining provisions shall remain in full force and effect.

38. Headings

The captions contained in this Contract are for convenience only and shall not be considered in the construction or interpretation of any provision hereof.

39. Integration and Modification

This Contract, including the attached exhibits referenced in Section B, contains the entire agreement between the parties regarding the matters referenced herein and supersedes all prior written or oral discussions or agreements regarding the matters addressed by this Contract. Any modifications or amendments to this Contract will only be effective when made in writing and signed by authorized parties for each party to this Contract.

40. Authority

The representatives signing on behalf of the parties certify that they are duly authorized by the party for which they sign to enter into this Contract.

41. Certificate of Compliance with Oregon Tax Laws

By executing this Contract, Engineer certifies under penalty of perjury that Engineer is, to the best of Engineer's knowledge, not in violation of any Oregon tax laws described in ORS 305.385(6) and (7).

MOLALLA RURAL FIRE
PROTECTION DISTRICT #73

By: _____

By: _____
Authorized Signature

Title: _____

Title: _____

Date: _____

Date: _____

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Exhibit A

Scope of Work

A. Scope of Work

1. Seismic Evaluation:
 - i. Conduct a site visit to document the condition of the existing building and structural system.
 - i. Review the condition of the existing building for readily visible damage or deterioration of the structure over the years.
 - ii. Perform the ASCE 41 building assessment, consisting of a Tier 1 general assessment with additional Tier 2 calculations done for specific deficiencies deemed critical.
 - ii. Prepare a Findings Report, including scenarios for repair of deficient items.
 - iii. Produce a cost estimate for the seismic upgrade of deficient items noted in the report.
 - iv. Assist the District in the development of a project budget to be used for the purpose of requesting the amount of funding needed by the grant to complete the proposed rehabilitation.

2. Site Master Plan:
 - a. Develop Conceptual Design.
 - i. Attend Pre-design meeting at Molalla Station No. 82.
 - ii. Research land use regulations and identify any planning and zoning criteria (setbacks, driveway location, building orientation issues, etc.) that might affect the site layout.
 - iii. Develop preliminary narrative of major building systems (such as structural systems, mechanical, electrical, plumbing, and utilities, etc.) and construction materials.
 - iv. Attend Preliminary Review meeting with District to approve conceptual design.
 - v. Refine conceptual design documents based on District comments.
 - vi. Obtain written approval from District to proceed with cost forecast.
 - vii. Prepare construction and soft cost forecast for probable project cost.
 - b. Prepare draft final report. The report shall consist of the following:
 - i. Executive summary describing the anticipated goals of the project and the process taken to achieve them.
 - ii. ASCE 41 Tier 1 and Tier 2 reports.
 - iii. Rendered site plan of the selected scheme.
 - iv. Cost estimate for the proposed seismic upgrades.
 - v. Design team recommendations and next steps.
 - c. After District review and comment, prepare final report, and if necessary, prepare a presentation to present the findings of the report to City Council or other bodies.

3. New Building:
 - a. Construction Documents.
 - i. Provide construction documents consisting of drawings and performance specifications, including architectural site plan, civil, architectural, and structural plans and details.
 - ii. Update and finalize building code analysis and incorporate into construction documents.
 - iii. Issue 50% construction documents for District review.
 - iv. Obtain written approval from District to proceed with cost forecast.
 - v. Construction and soft cost forecast for probable project cost.
 - vi. Attend meeting at Station No. 82 to review probable project costs, and provide recommendations for value engineering, if necessary.
 - vii. Continue to develop and refine documents based on review of 50% construction document set and accepted value engineering strategies.
 - viii. Issue 90% construction documents for District review.
 - ix. Obtain written approval from District to proceed with cost forecast.
 - x. Prepare construction and soft cost forecast for probable project cost.
 - xi. Attend meeting at Station No. 82 to review probable project cost, and provide recommendations for value engineering, if necessary.

- xii. Continue to develop and refine documents based on review of 90% construction document set and accepted value engineering strategies.
- xiii. Obtain written approval from District to submit for land use review and building permits.
- xiv. Submit and obtain approvals for land use, building/trade, engineering, and Public Works permits (see, below).
- b. Land Use and Permitting.
 - i. Type III Site Design Review and Type III Condition Use Review (City of Molalla):
 - A. Perform due diligence research on zoning and development requirements for on- and off-site work.
 - B. Prepare for and attend one pre-application meeting with City of Molalla.
 - C. Coordinate with in-house disciplines and District to review project's compliance with development standards of the City of Molalla Municipal Code.
 - D. Obtain and complete application form(s) and prepare land use documents submittal package(s) (including burden of proof document that responds to the specific approval criteria identified for required land use reviews) for each separate review listed and submit to the City of Molalla.
 - E. Respond once in writing and provide corresponding document (narrative, drawings, specifications, etc.) update. Resubmit for approval for reviews listed above.
 - F. Monitor staff review for application, including but not limited to agency reviews, public comment, and preparation of staff report.
 - G. Attend meetings, as required, with City staff for general review/coordination of land use applications.
 - H. Monitor and track status of included approvals listed above on a weekly basis for up to 14 weeks.
 - I. Generate and prepare presentation document for public hearing.
 - J. Attend Planning Commission meeting(s) and present to Commission for approval.
 - K. Coordinate and review any final conditions of approval such that they are documented and accounted for with subsequent development applications.
 - L. Notify District of approval of each listed permit when confirmed by City of Molalla.
 - ii. Building Permits:
 - A. The following building permits are required:
 - 1. Building Permit – Clackamas County
 - 2. Demo Permit – Clackamas County
 - 3. Mechanical Permit – Clackamas County
 - 4. Electrical Permit – Clackamas County
 - 5. Plumbing Permit – Clackamas County
 - 6. Engineering Design Review - Construction Permit (right-of-way and City utility impacts) – City of Molalla (following land use approval).
 - B. Obtain and complete application form(s) and prepare construction documents submittal package(s) for each separate permit listed above and submit to permitting authority for each.
 - C. Respond once in writing and provide corresponding construction documents (drawings, specifications, calculations, etc.) update. Resubmit for approval for each included plan review correction notice listed above.
 - D. Monitor and track status of included permits listed above on a weekly basis until approved.
 - E. Notify District of approval of each listed permit when confirmed by permitting authority.
- c. Bid Assistance.
 - i. Assist District in reviewing and qualifying General Contractors for inclusion as a selected bidder.
 - ii. Review District requirements for inclusion in bid documents.
 - iii. Issue bid documents consisting of bidding requirements, proposed contract forms, general conditions, supplementary conditions, drawings, and specifications to General Contractors for bidding.
 - iv. Consider properly submitted Substitution Requests, as allowed by Contract Documents, and include any Substitution Requests in addenda.
 - v. Organize, prepare agenda and attend pre-bid meeting at Molalla Fire Station 82.

- vi. Respond to written questions from General Contractors and those specifically discussed in formal Pre-Bid meeting during the bid period via addenda, as appropriate, to address clarifications to bid documents prepared by Engineer and/or Engineer's consultant.
- vii. Respond to written questions from General Contractor during the bid period via addenda, as appropriate, to address clarifications and/or revisions to portions of the bid documents prepared by District and/or District's separate consultants. (District and/or District's Consultants to include revisions to their documents and addenda verbiage for Engineer to include and issue formally via addendum).
- viii. Receive and log General Contractor's sealed bids.
- ix. Open and review sealed bids with District to evaluate conformance with bid criteria. Architect will document and distribute bid results to General Contractor bidders upon District's written approval to do so.
- d. Construction Contract Administration.
 - i. Attend pre-construction meeting at Station No. 82.
 - ii. Review and act on properly prepared specified submittals.
 - iii. Provide in-office support to assist with normal construction contract administration duties for items such as phone calls and requests for additional information (RFIs) for clarification to contract documents prepared by Engineer and Engineer's consultants as follows:
 - A. Architect for up to 12 hours a week for 16 weeks.
 - B. Structural engineer for up to 4 hours a week for 8 weeks.
 - C. Civil engineer for up to 12 hours during the course of the project.
 - D. Landscape architect for up to 12 hours during the course of the project.
 - E. Mechanical engineer for up to 12 hours during the course of the project.
 - F. Electrical engineer for up to 12 hours during the course of the project.
 - G. Plumbing engineer for up to 12 hours during the course of the project.
 - iv. Conduct job site visits to observe the work in progress and prepare written field observation report(s) as follows:
 - A. Architect to attend up to 8 job site visits bi-weekly.
 - B. Structural engineer to attend up to 2 job site visits overall.
 - C. Civil engineer to attend up to 2 job site visits overall.
 - D. Landscape architect to attend up to 2 job site visits overall.
 - E. Mechanical engineer to attend up to 2 job site visits overall.
 - F. Electrical engineer to attend up to 2 job site visits overall.
 - G. Plumbing engineer to attend up to 2 job site visits overall.
 - v. Keep a project log for items such as addenda, substitution requests, RFIs, submittals, COPs, and change orders.
 - vi. Process and review monthly properly prepared applications for payment from the General Contractor.
 - vii. Architect, civil engineer, and landscape architect will conduct a punch list site visit to observe the substantially complete work-in-progress, prepare written punch list report, prepare and issue a Certificate of Substantial Completion.
 - viii. Architect will conduct a punch list verification site visit to observe the completed work and provide written punch list confirmation Report.
 - ix. Process and review project close-out materials up to two rounds of review and comment.

Exhibit B

PUBLIC CONTRACTING CODE REQUIREMENTS For ORS 279C Personal Service Contract

1. Contractor shall pay promptly, as due, all persons supplying labor or materials for the prosecution of the Work provided for in the Contract, and shall be responsible for such payment of all persons supplying such labor or material to any Subcontractor.
2. Contractor shall promptly pay all contributions or amounts due the Industrial Accident Fund from such Contractor or Subcontractor incurred in the performance of the Contract, and shall be responsible that all sums due the State Unemployment Compensation Fund from Contractor or any Subcontractor in connection with the performance of the Contract shall promptly be paid.
3. Contractor shall not permit any lien or claim to be filed or prosecuted against the Owner on account of any labor or material furnished and agrees to assume responsibility for satisfaction of any such lien so filed or prosecuted.
4. Contractor and any Subcontractor shall pay to the Department of Revenue all sums withheld from employees pursuant to ORS 316.167.
5. Contractor shall employ no person for more than 10 hours in any one day, or 40 hours in any one week, except in cases of necessity, emergency, or where public policy absolutely requires it, and in such cases, Contractor shall pay the employee at least time and one-half pay for: 1) all overtime in 10 hours in any one day or in excess of 40 hours in any one week, whichever is greater, except for individuals under personal service contracts who are excluded under ORS 653.010 to 653.261 or under 29 U.S.C. 201 to 209 from receiving overtime; or 2) work performed on the legal holidays specified in a collective bargaining agreement or in ORS 279C.540(1)(b)(B) to (G).
6. Pursuant to ORS 279C.520(2), the Contractor must give notice to employees who work on this Contract in writing, either at the time of hire or before commencement of work on the Contract, or by posting a notice in a location frequented by employees, of the number of hours per day and the days per week that the employees may be required to work.
7. Pursuant to ORS 279C.530(2), all employers, including Contractor, that employ subject workers who work under this Contract shall comply with ORS 656.017 and provide the required Workers' Compensation coverage, unless such employers are exempt under ORS 656.126. Contractor shall ensure that each of its subcontractors complies with these requirements.
8. All sums due the State Unemployment Compensation Fund from the Contractor or any Subcontractor in connection with the performance of the Contract shall be promptly so paid.
9. The Contract may be canceled at the election of Owner for any willful failure on the part of Contractor to faithfully perform the Contract according to its terms.
10. Contractor certifies that it has not discriminated against minorities, women or emerging small business enterprises or a business enterprise that is controlled by or that employs a disabled veteran as defined in ORS 408.225 in obtaining any required subcontractors.
11. Contractor certifies its compliance with the Oregon tax laws, in accordance with ORS 305.385.

12. In the performance of this Contract, the Contractor shall use, to the maximum extent economically feasible, recycled paper, materials, and supplies, and shall compost or mulch yard waste material at an approved site, if feasible and cost effective.
13. Pursuant to Owner's Public Contracting Rule 137-049-0880, the Owner may, at reasonable times and places, have access to and an opportunity to inspect, examine, copy, and audit the records relating to the Contract.

Exhibit C

Request for Proposal

REQUEST FOR PROPOSALS

Pursuant to District Rule 137-048-0220, the Molalla Rural Fire Protection District #73 (District) is conducting a formal selection process to invite qualified architects and/or engineers to submit proposals to provide: (1) Seismic Evaluation of Stations Nos. 81 and 82; (2) Master Plan of full site of Station 82; and (3) Design and construction of an apparatus bay, office, and storage structure at Station No. 82 (collectively, the "Project"). The estimated cost of the services, combined, is unknown, but may exceed \$100,000.

The full Request for Proposal (RFP) may be obtained from, and questions posed to:

Name:	Clinton Shaver
Title:	Lieutenant Molalla Rural Fire Protection District #73 320 N. Molalla Avenue P.O. Box 655 Molalla, OR 97038
Telephone:	(503) 829-2200
Email:	shaver@molallafire.org
Website:	www.molallafire.org

Proposals will be received by the District until closing at 5:00 p.m., on August 26th, 2016. Responses received after this time will be rejected as non-responsive. Proposers shall submit proposals in a sealed opaque envelope, plainly marked "Proposal for Architectural/Engineering Services," Attention: Lt. Clinton Shaver, at the above address. Faxed and emailed proposals will be rejected as non-responsive.

Exhibit D

Engineer's Proposal